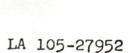
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Special Agent in Charge

GPO: 1976 O - 402-735 (73)

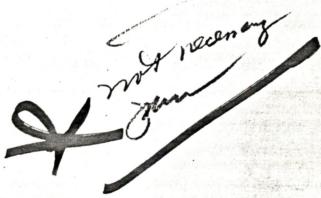


On 11/14/72, RICHARD H. BEST, Chief Security Officer, Rand Corporation, Santa Monica, advised that the "Rand Corporation Prisoner Study in Vietnam 1964 - 1969" was never classified to the best of his knowledge. He said he believes the entire series has been released for public consumption by the Advanced Research Project Agency (ARPA), Arlington, Virginia, and is available either on paper or microfilm.

He recalled that part of that study, that which relates to Korean Atrocities, was once excised, for diplomatic reasons, by ARPA, but Rand was not asked to excise it from their copies. Subsequently, a Rand internal paper, RM-5487-ISA/ARPA, "The Viet Cong Style of Politics (U)", based on the atrocities was published in 1968 by NATHAN LEITES and was considered confidential by Rand at that time. Now, since ARPA has released the study for public consumption BEST did not know if the part relating to Korean Atrocities was still being withheld by ARPA and he suggested that that agency would have to be contacted to resolve that matter. With that one exception he knows that the rest of the study was and remains unclassified.

BEST made available the four enclosed papers suggesting that they contain a more accurate presentation of the decisions concerning this study as to its classifications and public availability.

Although information indicates that the study is not classified, the Bureau may want ARPA contacted concerning the present feeling about release of the Korean atrocities section, even though that section was withheld rather than classified.



Much Sind

#### MEMORANDUM

19 May 1972

To:

J. R. Goldstein

From:

R. D. Specht

Subject:

WASHINGTON POST STORY ON ALLEGED RAND

CENSORSHIP OF INTERVIEWS DEALING WITH

KOREAN ATROCITIES

Copies to:

D. B. Rice, J. Vogel A. S. Mangel

In July 1968 Rand published on RM by Nathan Leites,

RM-5487-ISA/ARPA "The Viet Cong Style of Politics (U), " 333 pp., Confidential (4)

which devoted seven pages ("Addendum to Sec. V: A Contrast with Koreans, " pp. 87-93) to Korean behavior, as described in eight of the Vietnam interviews.

The RM was distributed to 98 addresses (205 copies) -- DOD, Army, Navy, Air Force, State, Wnite House, even Battelle, Hudson Institute, and PRC. Twenty copies went to the Defense Documentation Center. That is, copies are available (to anyone cleared for Confidential material) both from Rand and from DDC. The publication was advertised in the one-page Rand Research Brief and in Rand Abstracts, which goes to some 800 addressees.

In order to make the work available to the general public, Rand asked the DOD to declassify it. This was approved, provided the Korean section was deleted. The sanitized version was published in May 1969 as RM-5487-1-ISA/ARPA. (However, atrocities by the GVN are described in graphic detail in this unclassified RM -- pp. 107, 115, 162, 197, 199.)

The original interviews (the eight quoted by Leites plus some 2500 others) have been released by the Department of Defense and have been furnished to the Defense Documentation Center (DDC), Comeron Station, Alexandria, Virginia 22314, for processing and sale to the public. I understand that microfilm will be available around mid-Jure for about \$100. There has been no censorship of atrocities, Korean or einerwise. To protect the

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interviewees from possible reprisal, some names and dates have been blocked out: their names, organizations, date of the month on which they railied or were captured, names of hamlets or villages, and names of reletives; similarly, the names of Vietnamese interviewers were also deleted.

R. D. Specht

RDS:mt

500

### DRAFT MEMORANDUM

To: List

12/21/71

From:

J. F. Digby, F. P. Hoeber

Subject : SOME BACKGROUND ON RELEASE POLICY WITH RESPECT TO THE VIETNAM

INTERVIEWS

Because of the recently renewed interest in the availability of Rand's interviews with Viet Cong prisoners, defectors, and other groups in Vietnam, we are setting down some of our recollections and gleanings from the files with regard to release policy. One purpose of doing so is to give others involved a chance to correct or add to the record we present here.

The basic thing to be said is that the bulk of the interviews were never regarded as classified; during the most active periods of the project government policy was not particularly restrictive. At its inception it was clear that Rand would have to employ Vietnamese professionals and clerical help. We believe the first professionals were selected from among scholars who were well known to Donnell and Zasloff as reliable people. This procedure was checked out with MACV J-2; but we do not believe there was any procedure for clearing our Vietnamese employees early on. Moreover, the basic interviews themselves were made in many parts of Vietnam and handling tapes and transcriptions as classified material would have slowed the work considerably. The responsible officials at MACV and at the ARPA field unit were completely aware of the procedures, many of them being frequent visitors to the Rand offices.

65 4084

At first it was MACV-J-2, then later the ARPA field unit, who suggested the distribution for the interviews. Bill Jones remembers that at one time approximately 120 copies were sent out, principally to government offices in Saigon and Washington. One of our quarterly reports to ISA and ARPA indicates that the number had dropped to 80 by mid-1968. Jones also remembers that in 1967 and 1968 JUSPAO maintained a file of the interviews which were available to reporters, even though by then they were marked "For Official Use Only."

It was in 1967 that serious attention began to be paid to the possibility of releasing the interviews generally. At Harry Rowen's request George Tanham carried out an inspection visit to the interview project in the spring of 1967 with the object of seeing if the entire project could not be turned over to some government agency. While this seemed impracticable at the time, one of Tanham's incidental recommendations was that we arrange to release the interviews generally. This position was also taken by ARPA/AGILE, notably by Garry L. Quinn who was monitor of Rand's contract. (This was consistent with a general attitude at AGILE of designing research and releasing results in such a way as to contribute to the general scholarly community.) See Tanham's 27 June 1967 memo, attached, for its statement that ISA and AGILE favored release.

Also in mid-1967 Jim Digby met in Washington to discuss release policy with Colonel Marshall Sanders and Mrs. Marjory Gibson, who monitored the relevant contract for ISA. Even though ARPA, by this time, was already contributing most of the funding, Secretary McNamara, who had shown a personal interest in the project, had implicitly designated ISA as

executive agent for policy decisions concerning the project. Thus it was significant that Colonel Sanders and Mrs. Gibson concurred with Quinu's proposal that the interviews be released, leaving details to be worked out by Rand. They also specifically agreed that we should turn over copies of the interviews to a graduate student, Paul Berman, who was writing his doctoral dissertation under Ithiel Pool at M.I.T., and that releases should be made to similar "serious scholars," even before general release. (See Wolf's letter to Pool, attached.)

Meanwhile, the arrival of Fred Ikle as new head of Rand's Social Science Department resulted in a more cautious approach being taken on the part of Rand. Otherwise, Rand might have moved quickly in the fall of 1967 to make the interviews generally available. Up to that time there has been little thought given to any use being made of the interviews except by rather specialized scholars. The sheer bulk and sometimes poor legibility left us with the general feeling that almost no one would labor through these documents except a graduate student working on a dissertation.

movever, by the end of 1967 the pattern of passionate reactions to policies with respect to the war in Vietnam was beginning to emerge and with it a concern that the interviews might be used by other than dispassionate scholars. With thousands of pages of interview material, some of it with cadres who still held strongly to the Viet Cong line, almost any kind of allegation could probably be found. Another concern with releasing the interviews was that identification of the respondent might be possible in some cases, even with the biographical data of the cover sheet withheld. Not only would such identification violate the standards of American scholarly societies which deal with such matters, but they

might subject the respondents or their families to reprisal.

The changing public attitude toward Vietnam was reflected for the first time in December 1967 when a reporter named Don Oberdorfer asked to see the interviews and Kenneth E. Roberts, who had replaced Colonel Sanders at ISA, told us that a policy memorandum on release of the interviews was still in process of coordination between Public Affairs and DD&RE, and that in the interim the appropriate policy was not to release the interviews. "However, knowledgeable analysts who have a considerable familiarity with the interview material may talk to reporters and give general background discussions, not for attribution." (At this time the interviews were still available to reporters in Saigon and this temporary ruling came as something of a surprise in view of prior CSD attitudes favoring release.) We do not believe any later notification of a permanent policy was ever sent to Rand.

Meanwhile, it was still ARPA and ISA policy to make the interviews available to serious scholars and at ARPA's request a large number of interviews were sent in November 1967 to Steven Bollt of Mathematica, Inc., and in February 1968 to Donn E.Seeley of Stanford Research Institute, as well as to Berman. Copies of the letters of transmittal in the cases of Berman and Seeley were sent to ARPA/AGILE and ISA. We also learned in January 1968 that someone in the State Department had released some of the interviews to an assistant professor at Catholic University in Washington.

A typical caveat to a recipient is given in our letter to Seeley, of which an excerpt is attached. Making the interviews available to serious scholars continued to be the policy through 1968, and we reported in mid-1968 to ISA and ARPA, "Work has continued on making the interview date more accessible to qualified researchers, from within, or outside of, Rand. A new technique of typing interviews onto magnetic tape . . . should ease both access and storage problems." Considerable work by clerks went into blanking out identifying data before making microfilms; the thoroughness of this job would have to be checked by senior staff, however.

By the end of 1968 it was clear that the war in Vietnam had become a favorite central theme of student riots, and what had seemed like an easy policy of simply asking reliable scholars to keep such materials locked up when not in use no longer seemed a reliable way of preventing polemical use of excerpts out of content. Perhaps the same forces were at work to make fewer scholars specialize in Vietnam for, in any event, we have had very few scholarly inquiries since 1968.

Attachments:

- (1) Letter from George Tanham dated 27 June 1967.
- (2) Excerpt from letter to Lonn E. Sceley dated 7 Feb. 1968.
- (3) Letter from Charles Wolf to I. Pool dated 8 May 1968, with notation by Digby instructing his secretary to send copies to Quinn of ARPA and Roberts of ISA.

List J. R. Goldstein

<sup>≪</sup>S. Hosmer

F. C. Ikle

W. Jones

R. McDermott

A. S. Mengel

G. J. Pauker

H. S. Reven

G. H. Shubert

G. K. Tanham

J. Vogel

C. Wolf, Jr.

F.D. Specie

pes and win

8 Harch 1968 L-4836

Dr. Ithial de Sola Pool Massachusetts Institute of Yechnology Center for International Studies 30 Madsworth Street Carbridge, Massachusetts 02129

Dear Ithiel:

Fred Thie passed along to we your letter concerning Paul Berwan's use, in his thesis, of emclassified RAND interview naterials obtained in Vietnam. It is our strong desire to be helpful to Paul in his work with the data.

MAND's eltimate aim is to make the interviews generally available, upon request, to interested scholars. At present we are trying to entablish a workable and fair policy on dissemination and citation. All requests are screenes by Fred and by Jim Digby, who canages our ARPA/TOA study program. The intervieus bear (explicitly or implicitly) the overall classification of "Unclassified -- For Official bee only." We normally limit the dissemination of "For Official Use Only" materials to persons at policy setting or decisionsaking points in the government, and to serious scholars in the acadesic commentty. Jornally, too, we ask that such tuterials not be cited in the bibliographical apparatus. In the case of the interview nevertals, we are observing both limitations, but are working to modify or remove the one governing citacion. For the present, then, we request that no bibliographical citation be made of the MMD material. A prefatory note covering the materials weed would, however, be appropriate. If this policy on specific citations should change, we will inform Paul insadiately.

Some conting ago, we secured the permission of the Advanced Insecret Projects Agency and the Office of the Assistant Secretary of Defense/International Security Affairs to make the Shipment of selected interviews to Bernan. He,

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in turn, agreed to keep the materials under his direct control and to return them to EVID upon completion of the work.

I hope that this letter clarifies the matter. If you have further questions, please let me know.

Sincarely,

CX: 32:1f

Charles Wolf, Jr.

cc: Mr. Paul Borman, 85 Pierce Road, Watersown, Mass. Dr. Fred Ikle, The RAND Corp., Santa Monica, Cal. Mr. James Dieby, The RAND Corp., Santa Monica, Cal.

bcc: S. Cochran M. Palmatier

Ref. Inc. Ltr. No. 4318 dtd 1-31-68

#### MEMORANDUM

DATE.

6/27/67

TO:

1. Dichy

MEMO NO .: WM- 847

FROM:

G. K. Tanham

SUBJECT:

CLASSIFICATION OF VIET CONG MOTIVATION & MORALZ STUDY REPORTS

COPIES TO

W. Jones, T.M.Longridge, A.S. Mengel, H. Rowen, G. Shubert, J. Vogel W/O Library

TOTAL TOTAL

Both ISA and ARPA feel that we should try to make as many of the VC reports as possible unclassified. They want us to reconsider Phil Davison's RM-5267, as they think it is unclassified. I have discussed this with Phil, and he is very much in favor of it and also considers his RM to be unclassified. As a result of this memo, would you please undertake this review. If it is determined to be unclassified, we should inform ISA and ARPA and submit it for their review. We also should review past RMs connected with this study to see if there are any others which could be downgraded or which ones with a few minor changes could be downgraded.

I have discussed this with Harry, who is in agreement, but says he has views on the declassification of some of the past RMs. I think we should also officially state Harry's policy that the interviews themselves after six months may be made available to persons seriously interested in the subject matter. ISA and ARPA are also in accord with this. This policy allows our researchers first crack at the data but makes it available to a wider group.

I might add that both ISA and ARPA seem pleased with the reorganization of the study dealing with the lower level operations of the VC.

Copies to persons as indicated

G K Tannam

GKT:ir

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[Excerpt from letter to Mr. Donn E. Seeley from Samuel W. Cochran dated February 7, 1968]

"RAND and its government sponsors desire to make the RAND interviews available to serious scholars who are doing professional research. We are making plans to this end; however, some of the details to bring this about have not been worked out.

"Until we establish the machinery to make the interviews available to a larger audience we would like to ask you to keep them locked up when not in use, not to quote them for open publication without further consultation, and to limit their use to SRI's land reform study."

(Copes sent & G. Gienn, AMM, and K. Rolling, 1512.)

UNITED STATES Memorandum

ACTING DIRECTOR, FBI (65-74060) DATE: 11/20/72

SAC, LOS ANGELES (105-27952)(P) ATTN: FBI LABORATORY RADIO ENGINEERI

RADIO ENGINEERING

SECTION

SUBJECT:

MCLEK -SIO

ReLAtelcal to Bureau 11/15/72.

This will confirm referenced telephone call from to Laboratory Supervisor requesting

Bureau (RM) 1- Los Angeles GJM:fet

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SUBJECT: (MCLE	K.			
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Re C	Chicago teletype, 11/	14/72.		
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INTED STATES DEPARTMENT OF DISTICE

. FUDERAL BUYEAU OF INVESTIGATION

Chicago, Illinois Hevenber 20, 1972

In Reply, Please Pefer to File No 65-5369

# AMUHOMY J. RUSSO. JR.

On November 18, 1972, a meeting of the Chicago Fonce Action Conlition was hold at 18 South LaSalle, Chicago, Illinois, and Anthony J. Russo, Jr., was billed as a special guest speaker.

by approximately 200 individuals. Rusus apoke for approximately 200 misutes before this group.

Pages, according to colated that the news of "Peace at Hard" which according by Presidential Advisor Honry Kissinger was greatly confusing peace groups and there who did not really understand what was hoppening in Viet Fam. He cornended the siscable turneut at the speech and was impressed with the fact that individuals were not convinced the war was not ever. He claimed the war is not ever and would not be ever for some time. He characterized this stage of the war as being in the covert stage, much like that in Leos. He claimed that R 52 strikes were worse then ever and that in reality the war was continuing to oscalate.

There would, he said, cortainly be seen kind of a cesse fire, but in reality iteenly would mean a cossation of briefings to newsmen at the Pentagon and ending of press releases.

Funds then quoted Pontagon Papers from a some to the President, 1985. The government in Saigen is a travest. It is an approximation to severement. There employed by station Thick and the recycle represent days pushers and the contract. We excouraged anti-year scenic "to break through the cloud of lies. The Tiethermen are not drive for through the cloud of drive for the United States".

This correct contains neither recommendations for conclusions of the Federal Pareon of Investigation. It is the property of the Federal Pareon of Investigation and is leased to your energy; it and its contents are not to be distributed extuide your assency, nor duplicated within your agency.

Francis 65 17 11 5 40%

## ANTFONY J. RUSSO, JR.

Regarding his trial, Russo felt the case to be very important as it was giving an opportunity to express what was roslly happening in Viet Nam. The system by which documents are classified, according to Russo; was not based upon law, but rather upon an executive order, not backed by Congressional statute. If the trial results in a conviction, the Executive Branch will have been successful in obtaining law by court precedent.

With regard to classification of documents, Russo commented that 99.5% of all government documents are over classified. Classification is a tool used to manipulate. "They want to manipulate yours and my opinion".

TEDERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

NOV 2 : 16/2

KNRØ14 LA CODE

533 PM NIJEL 11-21-72 DLW

TO ACTING DIRECTOR (65-74060)

ATTN -- DID

FROM LOS ANGELES (105-27952)

MC LEK.

Mr. Callahan Mr. Cleveland Mr. Conrad ... Mr. Dalbey . Mr. Gebhardt \_ Mr. Jenkins Mr. Marshall Mr. Miller, E.S. Mr. Purvis \_ Mr. Soyars \_ Mr. Walters \_ Tele. Room . Mr. Kinley \_ Mr. Armstrong Ms. Herwig ... Mis. Neenan .

Mr. Baker \_

Mr. Bishop \_

HEARING HELD BEFORE JUDGE BYRNE. U.S. DISTRICT COURT. LOS ANGELES, NOVEMBER TWENTY ONE INSTANT. DEFENSE FILED MEMORANDUM IN SUPPORT OF PREVIOUS MOTION TO DISMISS JURY. DEFENSE INDICATED WILL FILE MOTION ON ELECTRONIC SURVEILLANCE ADDRESSED TO INADEQUACY OF GOVERNMENT'S RESPONSE TO PREVIOUS MOTION. INDICATED HE WILL FILE AN ORDER REQUIRING GOVERNMENT ITS ELECTRONIC SURVEILLANCE CHECK AND WILL ADD ADDITIONAT EX-117 NAMES AND TELEPHONE NUMBERS. **氫O** NOV 30 1972

DEFENSE INDICATED THEY WILL FILE MOTIONS TO ALLOW ELLSBERG AND RUSSO TO PERSONALLY CROSS EXAMINE GOVERNMENT EXPERT DEFENSE ATTORNEYS INDICATED THEY WILL FILE AFFIDAVIT WITNESSES. TO RENEW MOTION TO ALLOW RUSSO TO PROCEED IN FORMA PAUPERIS. DEFENSE ALSO WILL FILE MOTION FOR DISMISSAL OF INDICTMENT BECAUSE OF GOVERNMENT MISCONDUCT. THEY DID NOT ELABORATE ON THI S.

END PAGE ONE

9 70EC 4 1972

LA 105-27952

PAGE TWO

JUDGE ORDERED ALL MOTIONS AND AFFIDAVITS BE FILED BY
NOVEMBER TWENTY EIGHT NEXT. HE SET NOVEMBER THIRTY NEXT FOR
HEARING ON MOTIONS. HE INTENDS TO RECONVENE JURY
DECEMBER ONE NEXT AND ASSUMES TRIAL WILL START IMMEDIATELY
AFTER DECEMBER FOUR NEXT.

ADMINISTRATIVE. DEPARTMENTAL ATTORNEY NISSEN ADVISED HE
IS CERTAIN JUDGE BYRNE WILL NOT DISMISS PREVIOUSLY SELECTED
JURY.

END

RES FBI WASH CLR

CLUB CLUB CLUST CARON

NR 005 BS CODED 6:20 RM NITEL 11/22/72 JMD TO ACTING DIRECTOR 65-74060 (ATTN: DOMINTEL)

LOS ANGELES 105-27952

FROM BOSTON 65-5236

MC LEK. SIO. BUFILE SIX FIVE DASH SEVEN FOUR ZERO SIX ZERO.

RE BOSTON AIRTEL TO BUREAU DATED OCTOBER EIGHTEEN LAST.

ON NOVEMBER TWENTY TWO INSTANT AUSA BACHMAN. BOSTON. ADVISED HARVARD UNIVERSITY (CAMBRIDGE. MASS.) PROFESSOR SAMUEL L. POPKIN APPEARED BEFORE USDC IN BOSTON. MASS. ON A MOTION TO SET ASIDE HIS CONTEMPT SITATION FOR FAILING TO ANSWER THREE GRAND JURY QUESTIONS CONCERNING THE RFC-23 RELEASE OF THE PENTAGON PAPERS.

USDC JUDGE W. ARTHUR GARRITY, JR., CONFIRMED THE CONTEMPT SITATION AND POPKIN TAKEN TO NORFOLK HOUSE OF CORRECTION IN 20 NOV 30 1972 DEDHAM, MASS. WHERE HE WILL XREMAIN "UNTIL HE PERJURES HIMSELF RELATIVE TO THREE QUESTION ASKED OF HIM IN GRAND JURY

BOSTON WILL MAINTAIN CONTACT WITH AUSA BACHMAN RELATIVE TO ANY FURTHER COURT ACTION REGARDING POPKIN.

END9 70EC 4 1972

RES FBI WASH CLR

ACTION .

Mr. Cloveland Mr. Gebhardt Mr. Miller, E.S. Mr. Armstrone

Mr. Felt Mr. Ecker Mr. Bishop Mr. Callahan

Mr. Conrad . Mr. Dalbey .

Mr. Jonkins Mr. Marshall

Mr. Porvis . Mr. Soyars .

Mr. Walters . Tele. Room . Mr Kinley

Ma Hervin

Mrs. Neena

... .... .. TIALS AND NUMBER

DRN:ycg

213-688-3358

United States Department of Austice

UNITED STATES ATTORNEY

CENTRAL DISTRICT OF CALIFORNIA U. S. COURT HOUSE

312 No. SPRING STREPT

Los Angeles, California 90012

November 21, 1972

Mr. Deemer Hippensteel Federal Bureau of Investigation Identification Division Washington, D. C.

Dear Mr. Hippensteel:

United States v. Russo, et al., No. 9373-CD

The United States Supreme Court has terminated the stay imposed in this case by Justice Douglas, and has permitted resumption of the trial.

The District Court Judge has scheduled the trial to resume the week of December 4, 1972. Your presence will be required at or about that time. It will also be necessary to have another pre-trial interview with you in view of the time that has elapsed since the first one. Arrangements for this reinterview and the time of your appearance as a witness will be arranged by telephone.

Special Assistant U. S. Attorney

He was 23 to be seen from 1.38.20

ST-113 REC- 70 ST 65-74060 -4) () 8 9

December 1, 1972

Mr. Deemer E. Hippensteel 7221 Tyler Avenue Falls Church, Virginia 22042

Re: DANIEL ELLSBERG;
ANTHONY JOSEPH RUSSO, JR.;
CONSPIRACY; THEFT OF
GOVERNMENT PROPERTY
ESPIONAGE

Dear Mr. Hippensteel:

Special Assistant U. S. Attorney David R. Nissen, Los Angeles, California, has advised by letter November 21, 1972, that trial of captioned case will resume the week of December 4, 1972. In addition, his letter stated that he would advise you by telephone as to the exact date you would be needed to testify and would contact you relative to a pre-trial conference.

Because of the voluminous amount of latent fingerprint material in this case, you were orally authorized to proceed to the Identification Division on November 29, 1972, to review records relating to this case and to prepare the necessary court exhibits.

MALLED 5

you at the rate of \$80.00 per day less the daily rate of any retirement and state of \$25.00 and allowed transportation expenses for travel from your residence to Los Angeles, California, and return to your residence.

Government Transportation Requests will be issued to obtain the necessary travel accommodations.

1 - Mr. Callahan / 1 - Mr. Soyars (Attn: M. F. Row)

Note: Authorization for payment
of expert witness fees and expenses
for former employees based on memo
M. F. Row to Mr. Soyars 6/28/72.
Hippensteel has been orally advised.

Plan

Miller, E.S.
Purvi
Soyn
Walten
Tele. Room
Mr. Kinley
Mr. Armstrong

ROOM TELETYPE UNIT

Mr. Deemer E. Hippensteel

Your claim for reimbursement for services should be made by executing Standard Form 1034, and for travel and per diem by executing Standard Form 1012. Copies of these forms are attached for your convenience.

The daily rate of compensation will be prorated if your services are required for less than 8 hours on any one day. Compensation will be limited to days actually required for you to perform the official duties relating to the testimony and for direct travel.

Should you receive any amount from the court for witness fees and/or transportation and subsistence expenses, such amount must be deducted from your voucher.

Sincerely yours, For the Acting Director

W. MARK FELT

W. Mark Felt Acting Associate Director

Enclosures (6)

# FBI

AIRTEL  (Priority)  TO: ACTING DIRECTOR, FBI (65-74060)  FROM: SAC, BOSTON (65-5236) (P)  SUBJECT: NC LEK  SIO  Enclosed for the Bureau are 5 copies of an LHM, and for Los Angeles one copy of the same LHM, which contains the comments of DANIEL ELISBERG based upon his appearance at Salem State College, Salem, Mass., on Tuesday afternoon, 11/7/72, at approximately 12:30 p.m.  ELLSBERG spoke for approximately one and one half hour, of which approximately one hour was taped. It was not possible the final half hour due to security reasons; however it is noted that one half hour consisted of a summation of his previous remarks.  A copy of the LHM as well as the tape is being maintained in the Boston Division.  ST-113 (5 7/060 HD)  PBURGU (Encs. 5) (M)  1 - Los Angeles (105-27952) (Encs. 1) (RM)  DFO/dn //-30-72  (4)  Sent M Per	1500 mm 1500 mm	Date: 11/28/72	0.00
AIRTEL  (Priority)  TO: ACTING DIRECTOR, FBI (65-74060)  FROM: SAC, BOSTON (65-5236) (P)  SUBJECT: MC LEE  SIO  Enclosed for the Bureau are 5 copies of an LHM, and for Los Angeles one copy of the same LHM, which contains the comments of DANIEL ELLSBERG based upon his appearance at Salem State College, Salem, Mass., on Tuesday afternoon, 11/7/72, at approximately 12:30 p.m.  ELLSBERG spoke for approximately one and one half hour, of which approximately one hour was taped. It was not possible the final half hour due to security reasons; however it is noted that one half hour consisted of a summation of his previous remarks.  A copy of the LHM as well as the tape is being maintained in the Boston Division.  ST_113  DECLIFICATION OF THE LAND OF	ansmit the following in _		
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FEDERAL BUREAU OF INVESTIGATION

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In Reply, Please Refer to File No.

Boston, Massachusetts
November 22, 1972

### DANIEL ELLSBERG

Daniel Ellsberg spoke at Salem State Collège, Salem, Massachusetts, at 12:30 p.m. on November 7, 1972.

The following are the comments of Ellsberg:

"How many here have voted at least once today (laughing) or will the rest of the day? How many can say that they have worked actively for McGovern in the past couple of months of his campaign? Well, so you see, there are discrepancies. We just called McGovern headquarters; they've taken Ted Kennedy as ransom (laughing) and...ah...the headquarters here locally is at 106 Lafayette Street in Salem. They need drivers, sign carriers, and leafleters at the critical hours between 5 and 8. Telephone Ruth Taylor who is the coordinator and I hope that...ah...that...ah...you will work for the campaign. And those of you who chose Nixon, if thought I would find out, the phone number is 745-8040, Ruth Taylor, address 106 Lafayette Street in Salem and I would hope very much that you do help out. I don't want to embarrass enyone but if you should make it, ... how many people here have or plan to...predict . a landslide for President Nixon? Maybe more. I think you will be unhappy with the results if you get a landslide from President Nixon for another four years. I need this because the FBI...their transcription is terrible; they make a lot of mistakes (laughing). (Applause) They need a court order to give any...any .

65-74060-4010

ENCLOSURE

transcriptions in public, in order to give transcriptions in private, statement that I made, but any public statements they made that they were planning to use against me in court...they came up with first about 1,200 pages then another 250 pages. I guess we'll have to rely on theirs. My Good, for 900 pages I quess I'm getting something from my taxes. (laughing) Found out how many mistakes there were, it was disappointing. You know, I think a landslide vote will not meet the happy results even for the people who at this moment think of Nixon as a lesser evil or whatever they think of him as preferable in any way as McGovern, because, I think in fact, that an overwhelming landslide of the proportion that some people predict, will have its effect not so much on Nixon but on every other institution in our Government. These institutions that so long have deferred to the President, Congress, the courts, the press, even the churches, the unions, every institution in our society really, I think has been complicit in some way or other with this war. Per varying reasons of interest or tradition or inertia or something...ah... but in any case they have failed to lend their weight against this war at least at the very very beginning. That's why the war has gone on so long and why it could go on a good deal longer. And if people in those institutions who have shown so little interest in performing themselves truly over the last quarter of a century...or so little interest that they did see through the war are merely putting their weight on the line against the process that kept us in the way, so much unwillingness to take any risk individually with their careers or institutional prerogatives, if they....the American people...voted overwhelmingly for the last four years of war, invariably it would seem for the Watergate scandal, for the corruption charges and everything which is the way I interpret that mandate rightly or

wrongly. I think that the Congressmen and the Senators, the reporters, editors, will. really line up on the White House lawn figuratively the day after the election and report for orders...And as I say I don't think anyone, regardless whether he voted for Nixon or not or he failed to work in this election, anybody will be happy with that choice, in terms of peace. The fact that Nixon would not be deprived of any institutional resistance. The policies he has already begun in the last four years, policies of direct attack I think on civil liberties, on constriction of the Bill of Rights, most of the amendments to the Bill or Rights and particularly the First Amend-In fact, some time ago I came to think that realizing his peculiar interpretation of a strict constructionist of the Constitution was someone who believed in the Constitution without its Amendments...he's been acting on this and he may have a chance to put a couple of more people on the Court after the election. I don't think ... with the landslide he might get if there was a failure to deliver this overwhelming mandate for the policies we've seen. By the way, even most of you that have been thinking of voting for Nixon this afternoon for whatever reason you, you ought to think seriously about doing what you can as an individual citizen in this opportunity to change that prospect and you can do it simply by subtracting your vote for the Nixon majority and giving it to McGovern. (Applause) For those of you who haven't worked up to now you have an opportunity for afew hours left. I think you'll regret before too long possibly, if you really have to look in the morror and say that you didn't do what you could even in the last minute left to us. In fact, the hours that are left ahead contains just that much that the margin of victory for Nixon if that's all it does, I think could probably be as importand and significant a...

useful political activity as you are likely to have in many years, not just this four years but possibly much longer than that. It's a better opportunity, and I'll come back to this, in some ways than you really have had in the past years because Nixon is right the choice is a more significant choice, a more real choice than we've had in a very long time, possibly in a generation. I say a real choice because it hasn't ... though it has looked as if we have had choices in the past but we increasingly realize that the choices have been less than real in terms of significant differences on foreign policies and in the measure of what happened in the country, the place we're in. I think awareness of that plight which is the plight of democracy, continues; democracy has kept a lot of people from engaging themselves in this election in the way that they should have done, I think, the way they might have done otherwise. I think that Richard Nixon specifically building on the tradition of Lyndon Johnson before him, the tradition of perceived deception and manipulation has really contributed so much to skepticism of many people of this country, amongst the political process, as to deprive the process this time of the people who might have otherwise have entered into it in an active way. It so happens, of course, the effects of that paralysis of deprivation are in no way balanced. They took the candidates who rely on volunteer help who dedicated or idealistic followers who give their time to punch doorbells, to be drivers, sign carriers, carry leaflets, and what not, and this doesn't happen to be Nixon. As we know as a fact, we're not going to learn who gave the ten million dollars, I read in the paper today, now until the court case by common cause is settled, or if we get it then, it won't be until March or April. It'll be interesting, I'm really curious if we find that out but it'll be a little late. With that money, however, which went for a variety of reasons

according to Time Magazine, one of which was to beat me up on the steps of the Capitol, taking part in public meetings to protest the bombing, to petition the Government, the. First Imendment, to petition the Government against the bombing of North Vietnam, he just went right over without, of course, an act of Congress just a little before the mining of Hiaphong was about to take place, very clear cut violation of international law and again without special permission by Congress or even prior warning, and some members of the Committee to Re-elect the President, CREEP it's called (applause and laughter)... next four years. I think that a good use for some of that money is really the same money that went to pay people, that went into the Watergate was well spent paying the same people, same Cubans ... that went into the Watergate to call me traitor on the sters of the Capitol and to punch me and beat me They, according to Time's scory, they were fended off by blows of my body guard but I didn't have a body guard but I called somebody to see what had happened. They suggested it was the services of Judy Collins beat them up (laughter). These are the people who participated in the Bay of Pigs which may give you a reading as to what happened then. (laughter) The people behind the microphone, including Bill Kunscler and Judy Collins and a few others, did protect me from these enraged Cubans....they were CIA mercenaries. They were mercenaries; they were hired by \$100 bills which came ultimately from checks that had gone through Mexico...checks from the campaign to re-elect the President. And you just don't get dedicated behavior from mercenaries when it comes to offensive action like that; they shouted traitor; they did do that; they have it on tape in fact, somebody took a tape of it but they didn't do much more than that, which explains to us something why we are so continually disappointed in the behavior of out Arvin Army in Vietnam and why we're

always so surprised by it. Another point that I want to get back, in other words, you really can't buy very aggressive offensive behavior from mercenaries; you can't really expect crusaders for a counter-revolution. You can't expect self-sacrifice from people who are fighting against the independence of their country. And that's the situation with out country. It explains the paradox that's always perceived by us as a disappointment or surprise, even failure by our advisors, why as President Eisenhower put it to John Kennedy in 1960, why so puzzling that the Communist side in these countries that always seem to have so much better morale than the people on cut side, on the side of freedom. This quote, by the way, was censored out of the Pentagon Papers in the Government Printing Office edition but it is in the Gravel edition which I... to you. Let me ask one more embarrassing question. How many people here have read some part of the Beacon Press four-volume edition, the Gravel edition of the Pentagon Papers? Anybody? Is that true? That's not bad. How about the Bantam edition? Good. Well, we're here to...ah...celebrate apparently, in the country, the tenth anniversary, according to the New York Times today, the tenth anniversary today of Richard Nixon's departure from politics. (laughter) (applause) Celebrate today..... This war has been going on for 25 years. This war could go on for a lot longer for the things we're fighting against, For those of you who are fighting against the war, it could go on for a long time. We should celebrate when we can. My wife and I celebrated the end of the war ten days ago right after Kissinger's speech. Very happily, with champagne. On the theory that you should celebrate very quickly at the first..... (laughter). We had a celebration; it took the edge off the disappointment a few days later. But I was drawing attention to this anniversary; the anniversary I'm speaking of

Nixon's speech in California where he announced that we would not have Richard Nixon to kick around anymore, when he said he was leaving politics forever, ten years ago today. ah... I mentioned it to somebody in the car and one of the students who drove me here asked me if I ever met Richard Nixon. And...ah...I said I had and it brought back memories which I thought I would share with you because they . are pertinent to the situation we're in today. I met him in 1966 in Saigon. I was there with a man named General Landsdale who had brought a team of us over; I was in the State Department then. He had some former CIA people that he had worked with in the past in the CIA, he had been in the CIA until 1960, then the Department of Defense and he is now retired. He had a team of people who worked with him in the Philippines saving the Philippines from Communism in the 50's. The 50's then had gone to Vietnam and had been critical in getting Bien installed sufficiently in power in '54 and '56. I was under the impression at that time that there was a civil war...elements of aggression from the North going on in Vietnam but a civil war was all, in which we had something to contribute to try to bring it to what Richard Nixon is calling this year peace with honor, peace that would last, and would be good for the people, very much in terms of what Nixon described as self-determination of these I had the impression that what was being forced upon them from the North, clearly, some of them had some popular support but that was clear, I think the Civil War as to what was to be stiven for was what Nixon has announced for us, today, a political settlement under which quote "the people of South Vietnam will determine their own future". I had fought, not fought but I had been a civilian participant in various kinds of cold war for a number of years by that time; I was in the Marines from '54 to '57 and in State Department....and so forth and was pretty well, I had my head

pretty well filled with the defects of the system that a Communist-led government would bring to any country it came into. Real defects in many ways are proceeding from the behavior of Russia with respect to freedom of speech in his own country or with respect to Czechoslovakia, very conscientious of that, conscientious then there are many Vietnamese who would prefer to have some sub- . stance, it was quite just of us to help them. This was the concept I had and is the concept still being offered by Richard Nixon years later after a good deal of more experience. Not to have that system put on them which seemed to have some substance. But it has one substance to it, that seems to me worth fighting for at that time. Well, anyway, in '66, now one of the things that Landsdale had done in the Philippines....is the matter of respecting him as a person anyways, well not anymore respecting because....devoted.... is a good deal self-deception as a result, but one of the things that made things critical in the Philippines is really worth remembering this much. I never mentioned this before. The Philippinos had been trained by us for 50 years after what I didn't know then but know now which is extremely brutal counter-revolutionary counter...campaign The difference is in technology against by us. the Vietnam War. It was a campaign in fact was fought with very little awareness in this country. A few dedicated senators, conservatives even fought against it, were known as anti-imperialists, who call themselves antiimperialists, that was a period known when people who were for it were not ashamed of the word imperialist, in this case extentionists manifest destiny going west even beyond California, and were pretty much apoligetic and they wouldn't make you feel embarrassed very much by what we were doing in the Philippines because very little of it reached the public. There is a new book out now by Daniel Sherman called "Republic or Destiny, Republic or Empire At Least", on the Philippines and the imperialist movement, another book by

Dionne Wolf called "Little Brown Brother" on the Philippines. It shows a remarkable. similarity in the two wars, Vietnam and the Philippines, and the insurrection and making the use, for instance, of relocation centers, torture, mass killings of civilians, very much a part of that war .... In any case after that, there was not too much anguish at home, the newspapers simply didn't cover it. Now, . let me get gack to the Vietnam War. After that, of course, though we tutored them in democracy, they took it with some enthusiasm over the years. Their Constitution is modeled after outs obviously. And they took elections seriously. They had a record of elections, but these were to become virtually almost entirely corrupted with suppression. We're not strictly Democratic elections. They had actually become a major feature of the Hucks campaign although these leaders of the Hucks were Communists they fought on constitutional issues...and they desired to have free elections. Landsdale then was one of those CIA Agents working with...Director of the Secretary of Defense to use the Armies, the Philippino Armies to guard the polls among other things on election day to insure an actual honest election, was one of the tactics used intimidating voters and rigging election boxes. And as a result they would have an honest election which in fact turned the incumbents out, incumbents who had been our allies....point. And to a large extent would boast the morale of the Huck Movement. It had been a major issue, alone, you realize from the Independence Movement to make elections and make a political issue. Honest elections were held. The Huck Movement was very seriously damaged by this defection against.... So Landsdale, this formed his ideas a good deal as to how one should compete ideologically with Communists for social change, to be the leaders of social change to offer revolutionary democratic change as opposed to

their dictatorial change, for we offer something better than they're offering, we try to. So, of course, we have had a number of elections in Vietnam by this time that all are very vague and very obviously corrupt. In 1966, thanks to pressurs from the Budhists in Icor, Key, who was then Premier with Thieu in a more figurative role at that time, had offered elections for a constituate assembly to provide the Constitution, a new Constitution for the country, one that would be....and... ah...Landsdale was then enthusiastic or hopeful about the idea that by holding really free elections for a change, including NLF, allowing NLF participation where he wanted to, that he could for once have a propaganda coup, if nothing else, and really show people that it was possible to have some degree of free choice. A choice that neither side had offered up to that time. Well, we had a politician, a Massachusetts politician, in fact, as an Ambossador at that time, Henry Cabot Lodge, and from his experience in American and Massachusetts politics he was very dubious about having free elections. wasn't sure that was....and not sure that people even understood what was involved when we offered such a thing. Until after I took notes one time on a meeting of the Mission Counsel for my boss Landsdale who couldn't come that day. I took part in the meeting as his representative. It was a meeting on this election stuff. This is by the way, is there someone here from the Salem News? This is my book that I am reading from. I wasn't going to mention my book but I was told on the way here by one of the students warned me that if I in any way mentioned my book the Salem News would attack me. (laughing) Suddenly it was kind of a nice feeling I discovered I really didn't care about that. Because one of the most amazing things about being on trial with a 115 year sentence hanging over you that you really can't get too concerned about getting attacked for promoting your book. (laughing)

Anyway I prefer to be introduced as author rather than a defendant these days I think: So I'm quoting it from a memo that I made on this then quoting Ambassador Porter, who later became my boss....it may seem like Landsdale became to recognize Tung, Minister of Defense, has been assigned to conduct these elections just like.... Tung is concerned with making elections as well run and . honest as possible said Porter to Lodge. recommended that Landsdale be requested to ask Tung just how we can be most helpful to him, that might mean helping Tung move about the country like in an airplane or helping other people move so forth. If you have any suggestions tell Landsdale. It is good for us said Porter that Tung has ministry of interior at this particular moment and that he is the kind of man he is. Lodge, I reported, responded with a good deal of reserve, launching into a rather long commentary put into more distinctively different grounds; Tuna, Porter, and Thieu, to skip over some of this, Lodge continued look, you've got a gentlemen in the White House right now who spent most of his life rigaing elections. He was responding very skeptically at the thought that we should be concerned if these elections were rigged. It says Johnson spent his life rigging elections. I spent my whole life once rigging the Republican Convention to choose Ike as a candidate rather than Bob Taft. If that was bad, rhetorically. I didn't want the newspaper men to set higher standards for these people than we have for ourselves at home. Nixon and I, you forget that Lodge had been Nixon's running mate actually in '60, Mixon and I would have taken Chicago in 1960 if there had been an honest count. The Republican machine there was just simply lazy. They didn't get out to vote and they didn't have anyone watching the polls. But I don't blame the Democrats for that; I blame the Republicans. There's just a limit as to how naive and hipocritical we can afford to be up here. Lodge turned to Porter and said, "Is that responsive to your question?"

When this

wasn't encouraging to what Landsdale wanted from these elections exactly but it just happened that the same week Nixon was passing through Saigon on one of his world tours. He had known Landsdale from years before when Nixon had been Vice President and Landsdale used to work for one of the .....So we thought if we could persuade Nixon of the importance of this and maybe he can persuade his old running mate to change his mide on this, to do a selling job on the importance of free election and I did so....a meeting with Nixon when, I remember very well, he was looking quite as trim and Presidential as he does lately (laughing). It was between a private citizen and he had, was out of politics forever at that point, and he really was, I won't go into it, but he was not looking too good, I remember it was late in the afternoon, he did, he made a conversation like a sharp, intelligent person but not being perceptive in some ways otherwise, and he was standing there shaking hands with everybody that was with the Landsdale group, about 12 of us, shook hands with Ed, and then he started to sit down and he said, "Well, Ed, what are you up to?" And Landsdale said, "Well, we're here trying to get help, help General Tung and make this the most honest election Vietnam has ever known, and as he was sitting, he was sitting next to Landsdale, he said, "Oh sure, ya right, honest, honest, that's what you want alright, honest, so long as you win?" (laughing) (applause) He said that, he really went through ritual. He grabbed Landsdale's arm very hard until Landsdale fell over, he came back, slapped his knee and winked (laughing) ..... I have done that a few times at home. My wife always moves to the other side of the room. (laughing) Last time, she said must I demonstrate by making her arm black

and blue....and it so happens that we turned to stone. There was a long silence and we changed the subject. Interesting enough as that election was fairly free as it turned out because .... constitutate assembly making the Constitution, it didn't really have any power, it didn't mean anything, so they really didn't bother to rig it and the result was quite astounding to everybody. Key's own cousin was tenth of ten candidates in the area of King Tao, it was Kennedy's....all over the map and people got in who were generally represented, a lot of young school teachers, religious people, moved in, all kinds, to the astonishment of everyone. So it was really quite a representative assembly. Well, they never made that mistake again, naturally...ah... the next election was more to logic...and of course it has gone that way until the latest 1967...ah...the 1967 election for Thieu, which was much more rigged obviously and he had the '71 one for Thieu with one candidate which...ah...that was an honest election (laughing). People asked me at the time what I thought of that election. it was far more honest in that they pretended to have several candidates because the result was not much different. They...they didn't make any bones about it. Of course, all of these certain things have proven to some question, this theory, this assumption that I had gone in with the proposition that Mixon had just reiterated here, that what we were interested in, self-determination of the people of Vietnam. He put it a little more honestly maybe, I think two days ago, President Nixon in a speech, when he said we don't want to see, we want self-determination, we do not, we will not...ah...we're not willing to see the imposition of a Communist or coalition government, peace, correction, description of our policy, what we have imposed....a dictatorial government representing the United States and es-

sentially, no one else except for the people directly on our payroll. We've done that for 25 years. Going back, you can start, by the way, with Nixon, of course, ah...or Johnson or Kennedy, in fact it goes back further than that, in fact a quotation from 1948 under Harry Truman is quite suggestive as to how we saw the situation internally. This was a Department of State policy statement on Indochina, September 27, 1948, 24 years ago, a year and a half before we came in with direct intervention by direct aid to the French in 1950, May of 1950. Since V-J Day, the majority of the people of the area, the Vietnamese, have suddenly resisted the re-establishment of French authority, a struggle of which we have tried to maintain insofar as possible, the position of nonsupport of either party....of intervention is both deceptive and a little paradoctical which we knew well as he admits here. Paradoctical in the sense that one of each side was a colonial, was as we saw clearly, trying to preserve, in fact, its independence. was a side that can't half recognize independence, something I didn't know when I went over there, for a year and a half at the time the active struggle started in the North. Ho Chi Minh had been recognized and by that time eventually elected in a relatively free election, leader of Vietnam, the defacto leader of the North and the puritan leader of all Vietnam, had been recognized as such, by the French, in negotiations at Fauntenbleau for one, in 1946. He'd run the post office, the civil servants, the police, the transports, everything, he was the leader of the government, and all the fighting. When fighting broke out in September of '46, the civil servants ran to the jungles....at that time, because what was happening was the French attempt to reconquer militarily a country that had won independence a year and a half earlier was almost the only attempt in the world, the military reconquest of the former colony. Another one actually

was an aborted attempt by adopting Indonesia but we had avoided that considerably by refusing any support for it by existing on negotiations and really by preference into an independent.... The only one we didn't do that with was the other one, the French attempt, and I think paradoctical in light of our real tradition at least conscientiously anti-colonialism. Now that tradition was . based to some extent on self-destruction in any case, because, as I say, the Phillipines who had won earlier, had established militarily on colonies on the Fhillipines. we weren't conscious of that. Consciously, we were...ah...we would have been ashamed if we had been aware of it. Consciously we opposed colonialism in general. But in practice we were not opposing it with the French and beyond that, even in '48 we were aware that our aid or ... . was being channelled directly to the French effort of reconquest of Vietnam. The neutrality even was a sham, and why we were even...ah...trying to be neutral with something that had been concealed or lied about to the American people. At that time, I think, in '48, out major purpose was to...ah...include the French position in Europe basically, although we didn't get into any trouble in Europe, we wanted their cooperation in joining the European Defense Committee and later NATO.... So we went along with their reconquest, an understandable policy, but one not easy to describe as the way it is built up and described these days as good intention. It was not a policy that the Truman Administration was at all able, self-able, to describe honestly and frankly to the American people. So it was not a sense really of tearing out purposes that the American people would support or that could be acknowledged. Okay, it says then we, in '48, we have not urged the French to negotiate with Ho Chi Minh, even though he probably is now supported by a considerable

majority of the Vietnamese people. Because. his record is a Communist. The Communist. background has many an influential figure in and about his government. Probably a lot of you have heard the estimate in Eisenhower's memoirs that 80 per cent or so of the people were supporters of Ho Chi Minh as against Valdi of the French Republic and we are continuing to support him in South Vietnam after A lot of people thought, later Eisenhower would get that way, you know, about Vietnam and pull that out of the air, the fact is if every, you know Presidential memoirs are relatively classified documents, that's what they are, and this one, among others, ah...every estimate that has been made, that Eisenhower had ever seen, that's what he meant by every knowledgeable person I know said this, every estimate he had ever seen told him indeed that Ho Chi Minh continued to have support of the majority of the people. To read that, for me to read that, after the denial of such a position so long as....as top secret intelligence estimates of 48, 49, and 50, was for me a somewhat stunning experience. I didn't read till I came back in '57 with hepatitis and joined the Mc Namara study group that was compiling its history, that they were still top secret. Perhaps I don't have to explain why they remained in top secret until the Pentagon Papers came out last year. Not to keep from the Vietnamese enemy or the Russians or the Chinese the fact that we have been well aware we were fighting the majority of the Vietnamese people. Speaking of that, they were there. They were on the side of the Vietnamese people.... Russia and China. They knew that. We were telling them no secret then or certainly not now, 25 years later. How about the American people? They heard that trash, sure, they heard it from Norm Chomski but they heard it denied by a succession of Presidents, and really between those authorities there's no contest for most Americans. For the sake

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that we all knew this because we've all heard it before and we all can read books,. you know....its an absurd condition. There are a lot of secrets in the Pentagon Papers. They have remained a secret by being classified, for 25 years, and the secret is what the Presidents actually were told when they made their decision. What they knew, or at least had an opportunity to know, and what they were told not to.... what they were told were national intelligence estimates were facts like these. Only with the knowledge and....of that information of how they reached their decision what was recommended to them after that, what was predicted to them, can we really form any opinion of what out leaders were up to or thought they were up to? They tell us why they were doing things or what they were trying to achieve or what they were attempting. But in fact these statements were virtually all lies. Some of the statements as to what they were doing that much were true. why they were doing them, what they expected, what the public should have done, what they have the right to do next, all lies. Republicans and Democrats. For those who say well, what we need to know is what the President has done, the decisions he has made, not how he reached them, that should be kept private as it is in private business firms or even in families. Not in a democracy. If you're trying to choose leaders you've got to choose the ones that make some sense of their values, what they're trying to achieve, who they're representing and what they're likely to do if you elect them and that's.....what they've done if they succeed and they will if they get a chance.....as to why they're doing it, what pattern of action they intend to, so that they're actually continuing to suprise you. The situation in which the actions of our leaders are a series of surprises should be recognized as a situation that has departed, very...ah...very

greatly from the conditions that make democracy possible. A choice between leaders that are going to proceed to surprise you on the basis of the expectation of getting promoted in the course of the campaign is not a genuine choice, because people are not stupid, they've come to recognize that. They've come to recognize their choices .... choices between brands of soap, we don't feel terribly abused and outraged when the advertising claims don't come true. come to expect that. We can come to expect that about Presidential candidates. We come to recognize yourself as not having democratic power. And that's the mood I think in which this campaign is being conducted in the year 1972. What passes for apathy on campuses seems to me to represent something far more on inous in the future of our country even in apathy vhich is beyond us now. a kind of desperation, a kind of anguish and frustration and surprise and the inability to trust either candidate, really putting trust before the promises and the ability to change policy..... I don't think people feel power as democratic citizens and they're really turned away from the promises that would encourage them to feel that power. They don't want to be fooled and humiliated anymore. Look at the election of 1960 again. The election that Lodge referred to. He may well be quite right when he spoke. I think you saw it by votes in Chicago. Sometimes I've said the Republicans were aware of that. You know, you can't evade responsibility for this war, you're man was President in 1960 so you have to take responsibility for it. But on the basis of the vote, the actual vote in Chicago, Nixon made a choice at that time not to contest the vote for which he's widely praised as not having, you know, cast his credit on democracy. There is a number of ways to drain credit for democracy.

There was another one he doesn't deserve so much credit for in that same election. You know he told it to us without embarrassing himself. It was in his book "My Six Crises". About that election campaign, how many people here actually saw or can remember seeing the debates between Kennedy and Nixon? By the way, I still think ... . do we need these lights? Okay, alright, fine. Um...one of those debates, if you very well remember now, 12 years ago on what terms those debates were conducted by Kennedy and Nixon we study a campaign, by the way, between two candidates ... personality, background of values....one expects in the title of the book by .... which was Nixon or Kennedy, "Is There a Leader?". It was in this book, during the campaign, he was trying to convince people that there was some difference between them. The actual issue on which the thing was conducted to a great extent were issues of the sort Kennedy charged that Nixon and his Administration, the Eisenhower Administration, had lost Cuba to Communists. Cuba is 90 miles away. I quote....October 18, 1960, John F. Kennedy speaks to the American people, Americans strikes relative to that of the Soviet Union has been slipping and Communism has been massively settling in every area of the world because the Iron Curtain now rests on the island of Cuba, only 90 miles Cuba has been launched to the Communists. Laos has begun to slip behind the Iron Curtain. I have never believed in retreating under fire. That was the issue on which John F. Kennedy called for re-election and that was not.....of the American public at that point. On the other hand, we got to this question of Cuba and Nixon tells us correctly that he hurt himself, he hurt Nixon saying what he would do if he were President in contrast to the incumbent was to arm Cuban refugees. In the same sense, by the way, it occurs to me recently hired in Miami

to come and beat me up in Washington. (laughing) And he would hire these guys to invade Cuba. Nixon said he listened to this with horror, knowing, of course, that he, the incumbent, was in fact at that very moment on the agenda to do just that. Matter of fact, he suspected...he suspected that and Kennedy knew that as he had been briefed by Allan Dullas. As a matter of fact, there is controversy to this day as to whether Kennedy did know it. Kennedy always insisted that Allan Dullas had not briefed him on this point and which was possible and it's really never been entirely clarified. But Nixon thought his opponent, as part of the game, as Lodge would say, to blame the Democrats for this, but he thought that his opponent was charging that this was a difference when in fact he knew that it wasn't a difference. At any rate, Nixon was now in a dilemma, as he said. On one hand he hated to give the game away by revealing he was in favor of this.....but above all it was taken into consideration that his opponent ..... He said I have no choice but to tkae the opposite position....cannot be para-I know it from exact quote ... ah phrased. .... I remember it very well. ....he said, he had to say on television in front of the American people, what my opponent has proposed is the most immoral thing I can think of until then (laughing). He said, he said it would violate all international law, it would violate all our commitments to the UN charter, to the OAS charter, it would be aggression, all of which, of course, is true. What...ah...what Kennedy is proposing and Nixon was planning was aggression, in fact. He said I knew that I had the weaker of the two positions because the American people don't care about the country or international They care about who wins. An interesting perception, that may be true, on which the President is still acting really. I was very much reminded of that passage when I

found myself debating a man who was later to become the Republican National chairman, Senator Dole, then Senator Dole, at the time of the...ah...the Cambodian operation, we were both on a program called "The Advocate" debating the Cambodian invasion ....aggression, violation of international law, one is likely to find and Dole made a statement on this program, "The life of a single American soldier is worth more than any imaginary line." Howard Miller, the advocate in this case, was actually somewhat taken aback by this case. He said, "Senator, the imaginary line you're describing is an international boundry." Dole said, "I don't care what you call it; its an imaginary line that the life of a single American soldier .... etcetera. Obviously, Kennedy...ah... Nixon is still acting on this perception. Obviously by such action, neither he nor his predecessors have done much to change that state of mind in America if it does exist, or in any way to induce in the consciousness, the international law, either restraint, or should he restrain from the behavior of state, including the United States, or its national leader, the President of the United States. On the contrary, Nixon no more or no less than his predecessors is consistently active on the theory, and in promotion of the theory, that the American President is beyond any law, constitutional or international. Subconsciously, I would say, on the theory that it's a criminal world, a difficult world and this is just a requirement, you have to, the American President must have that degree of freedom, freedom from law, freedom from constitution, freedom from the UN charter, and so forth is increasingly and inevitably freedom from democratic restraint as well. I think the kind of reception we saw in the 1960 campaign, where people thought well in that case, they got what they, they ... ah ... they voted for. They got a man who would invade Cuba. They didn't realize they would have gotten a man who would have invaded Cuba

if they voted the other way also. And interesting enough, by the way, they acted surprised when he did invade Cuba. Cause he, apparently they hadn't believed, they must have assumed that Kennedy had taken that position actually in the course of the campaign as well, and in '64 when I was with the Defense Department we had a President of the United States, Johnson, Kennedy's successor, telling. the American people that the plan proposed by the opponent to make bombing threats to the area of North Vietnam to achieve an acceptable settlement was the work of extremists, a fanatic, a nut, couldn't be trusted, had his finger on the trigger, knowing at that moment that every senior advisor in his Cabinet was proposing that same plan and so he expected him, correctly, expected him to carry it out as soon as he was re-elected. That was in '64 when people voted again to either end or moderatethe war for a man who had led them to believe that he would end the war on election day, today, eight years ago, seven million tons of bombs ago. We met some people from Defense, State, CIA, I was from Defense, White House, in the Office of ..... Monday to commence laying out a set of options for the President to consider as soon as he got back from the ranch, after the election, all of which were alternative forms of Goldwater option, in other words not an option. I was against all of them actually, so was my boss John .... but his boss wasn't. Robert McNamara. He was totally loyal in such terms, totally obedient to his own boss, when it came to his own instincts. I was adequately loyal to keep my mouth shut, except to him. I told him I thought these plans were all crazy, as well as illegal among other things. They were terrible plans. But I also kept my mouth shut and did my job as I was supposed to as people have put to me so frequently in the last year, what right did I have to put my judgment against the President's or McNamara? Who had appointed me or elected

me to be a carrier of truth to the American people? Well, I was very familiar with that attitude while I was in the Defense Depart-I acted on it. I happen to think that not only was I wrong then, to participate in a conscious active decertion of the American people, but they've all been.....kept their mouth shut were also all wrong to do that. And that the thousands of executive officials, who knew in advance, and then at the time, and then afterwards, about the actual decision making with respect to Cambodia, Laos, Lampai, the mining of Haiphong, all of whom kept their mouths shut, were all wrong, wrongful... subversive of democracy. Obedient to their bosses, but disobedient to their actual oath, to obey the Constitution, and to their countrymen, and democracy. The Constitution after all does not make, therefore, the President the sole guardian of foreign policy of war and peace or anything else. But it does allow....that has left us really with a single branch of government...an unchecked executive which is the essence of what we know as monarchy 200 years ago....What's wrong with monarchy? People who make a revolution, if you read history at that time, were not really judging the existence of the king, as the symbolic sound ruler and actually....he no longer had effected.....but with the corruption all the time. What they meant by it was a virtually independent power by the key administers.... By the way, if this is a class period let me know what time the people have to leave. And we know....unchecked executive came under attack by many people, particularly by Thomas Paine....to the court atmosphere in surround of the king, the deception, the feeling of god-like power, arrogant with respect to the lives of his people. The prime of monarchy is the cause of unnecessary The price of tyranny, whatever it might offer in terms of obedience and authority.... the price of such things as war were not needed, were not just. Wars whose purpose lay very much on the citizens who were taxed and grafted

and forced to fight and die in those wars. In that sense most wars, perhaps all wars,. were wars whose ways were against one's own people, by a government, by a government whose interest in keeping its own jobs, its own office was attacked by the disciplinary attitude, acceptance of authority that goes along with the war. You're reading right now some of the other people involved in the Watergate scandal...ah...that guy McCord who apparently participated in a, according to representative....in as a reserve officer in making a plan for censorship national censorship, opening of mail, censoring of radios, the news and keeping under surveillance or retaining everyone on a national watch list. This was to be done under emergency conditions or quote limited war. Obviously what's meant by that is a war declared by the President. Since we....had in Vietnam and for that matter Korea. ....was not made just, was not made under Nixon but was first applied under Kennedy in 1963. The kind of plan which was put into action in Greece in '67. An actual military plan which we simply had to pull the trigger at one point, push the button, put the plan into operation....Greece had lost its democracy. The kind of plan which is somewhat ....in this summer, in the Philippines. Philippines which General Landsdale had delivered from Communism by free election in the early 50's. The Philippines.....country which they from Communist dictatorship peaks as first, Korea is the third and Korea just went into marshall law in this last month....the Philippines and Korea, the immediate trigger and very obviously the fact that the incumbent could not constitutionally serve another term. In the Philippines because of a constituate assembly has been meeting now.....It has just"

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#### UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

Pittsburgh, Pennsylvania

November 28, 1972

#### DANIEL ELLSBERG

Daniel Ellsberg appeared on the Marie Torre Show, KDKA, Channel Two Television, Pittsburgh, Pennsylvania, 1:00 P.M., November 3, 1972, and a transcript follows:

Narrator:

Welcome to the Marie Torre Show. Today Marie's guest is Daniel Ellsberg, of the Pentagon Papers fame.

Marie:

The man who made public the controversial Pentagon Papers, Daniel Ellsberg, is our guest today. To fill you in on his background, Dr. Ellsberg was Strategic Analyst at the Rand Corporation, and an official to a Department, in the Department of Defense from 1964 to 1965. He spent two years in Viet Nam from 1965 to 1967; after he returned to Rand in '67 he began work on the McNamara Study of U.S. decision-making in Vietnam, now known as the Pentagon Papers, and which he felt compelled to reveal; not only because of a belief the war needs to be resisted, but also understood. Following publication of the Pentagon Papers in the "New York Times" in 1971, Dr. Ellsberg and Anthony J. Russo, a former Rand colleague, were indicted on fifteen counts, including criminal charges under three statutes, Espionage, Theft of Government Property, and Conspiracy. Dr. Ellsberg, are you disappointed that revelation of the Pentagon Papers did not accomplish more than it has?

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Ellsberg: Frankly, how do we measure that, the uh, I'm very happy at this moment, rather than disappointed that the war seems to be ending. I hope that that's true, and I'll be very happy if it is true.

Marie: But, do you feel that it has a direct connection as a result of the Pentagon Papers?

Ellsberg: I can't get very interested in that question actually. Someone, who, like lots of other people have been working to see the war end, and to see Americans stop killing Vietnamese for years now. After earlier years in which I was part of the effort over there, I think all of us are very happy that this is coming, and I couldn't care less who brought it about or whether a particular effort of mine or anyone else's even contributed. I'm just happy to see it come.

Marie: But are we wrong in thinking that your idea in revealing the papers was that it would bring about the end of the war faster than the normal process.

Ellsberg: I thought there's even more democracy than people know about how they're governed and the basis for this war, which I think involved a great deal of deception of the people. That they were likely to see it as illegitimate and merely withdraw their support for the war. Of course, they have done that. The polls over the last several years, not just since the Pentagon Papers, but even before that, have shown the majority of the people wanted the war over really some time before this, a year or two years ago, and on terms, certainly not much different from what we seem to be getting now. I think that the more they understood the war, the more they were likely to feel that. Regretedly, they were not allowed to feel by this Administration that they had much to say about it.

Ellsberg:

This was one of the issues that the president in particular kept telling the people; "This is my problem. This is a matter of foreign policy. I have a matter of principle here and I am going to save you from humiliation, at no matter what human cost. The human cost in Indo-China was 6,000,000 people. 4,000,000 refugees in the last three and one-half years under Nixon alone. 2,000,000 killed and . wounded. These are people I don't think ever made a political choice; a conscious, willing choice to pay that price for whatever it is we have achieved by this prolongation of the war; that is to impose that price on the Vietnamese people, along with the 20,000 Americans that were killed. So, I'm afraid that if foreign policy were more subject to democracy; popular will in this country than it seems to be now, I think the Pentagon Papers would have made a major contribution. As it is, I feel pretty sure that President Nixon wouldn't be changing his position on Viet Nam, and accepting terms like these, that I feel sure he could have had four years ago. If he didn't understand that the American people do realize there is still a war on, despite the fact that Americans aren't being killed, Americans know that bombing is a war: he wouldn't, I think, be moving at this particular time, just before an election, if he didn't believe that Americans wanted the war over; the killing of the Vietnamese over, and I think he's right, I think they do. He probably will gain votes by this. It's ironically a kind of gratitude from people who have been so frustrated, made to feel so impotent by the last three and one-half years of inability to make their wishes known, that they're bound to feel warm and greatful now that at last it's happening. I feel that myself; and I'm sure it's largely shared. I'm sure that the ironic result will be to help Mr. Nixon, but I think that's a tribute, both to the American people, their real values, and to the effort of many people who helped expose the war and reveal

Ellsberg: it to the Americans, make them clear that there was still a war on, despite the best efforts of the Administration to make the war invisible.

Marie: You've always said that you were motivated by conscience in revealing the Papers; this is what it amounts to, you just felt an obligation to make known this...

Ellsberg: No, I felt my obligations were broader than to a single boss.

Marie: Yeah. Does it bother you that some people have since accused you with more ulterior motives actually in revealing the Papers.

Ellsberg: No, I'm not aware that I have been accused of ulterior motives. What are you thinking of?

Marie: Well, let's take for example, Spiro Agnew.

Ellsberg: What does he accuse me of?

Marie: No, but I meant he did not accept in good conscience...

Ellsberg: Oh, but I'm not aware that I have been, not even aware, I don't think that's right. I'm not aware that my motives have been attacked. I certainly was, did expect that the Administration would be highly embarrassed by these disclosures, as would the preceeding administrations, again that they'd be very angry at me. That they would do their best to, of course the Administration is able to communicate by indictment. A prosecutor can get an indictment out of a jury pretty easily. It's a matter of rubber stamp these days. A grand jury is not really a protection, for a defendant, as it was meant to be. That means the Justice Department is able to communicate displeasure in front of the American public in quite an authoritative and costly way for a defendant by indicting him; that the main way the Administration communicated it's unhappiness about what I did ...

Marie:

At this time you're making this series of speaking engagements, you're going to many campuses throughout the country, do you find love everywhere? Do people love Daniel Ellsberg for what he did?

Ellsberg:

I don't know about love. I find people come to me and very good discussion about the war. In fact, the apathy that I keep hearing about from media, about the campuses, I hear it. on the campuses too, I hear the word, but I don't see it. I see in these audiences which range from 700 or 800, which is the smallest. but the average is 2,000 or 3,000. I've had some as many as 5,000, and often the discussion goes to 1:00 or 2:00 in the morning. Typically, on these campuses with a smaller group of people. I don't find apathy among them, I find a good deal of anguish. I find passivity. I don't find that they're involved in this campaign as I wish they were, but I think that's largely because of this sense of frustration and impotence over the last three and one-half years. It's hard to convince them that electoral activity means anything. They say, in effect, we voted twice. A lot of them are too young to have voted twice, but in principle, the American people have voted twice to end this war and what good did it do. I don't think many of them were able to believe that a George McGovern, for all his promises, would end the war reliably, and that was because they'd seen those promises before. I think by promising to end this war and not doing it, Richard Nixon actually almost destroyed the credibility of any challenger who would come along and make the same promises; and there was an air of cynicism that worked against any candidate who needed volunteers, who needed idealistic supporters. I think George McGovern wasn't able to get that. Of course, Richard Nixon, with his "shotcat" to use a common term, had his rich contributors to (unintelligible) people to stuff envelopes for free or to ring doorbells for him.

Ellsberg: So, quite ironically, I think that this need of cynicism, which is very different from indifference, unconcern has worked to the advantage of the man who helped to bring it about, Richard Nixon.

Marie: Not originally, though.

Ellsberg: He was not the only one to do that. Certainly his Democratic predecessors helped a great deal on that.

Marie: We'll continue our program with Daniel Ellsberg in just a moment.....
We're speaking to Daniel Ellsberg today, the man who made known the Pentagon Papers. Let's take a phone call. Hello, hi this is Marie Torre.

Speaker: Hi, I would like to make a comment to Daniel Ellsberg.

Marie: Okay.

Speaker: Okay, I would like to say welcome to Pittsburgh, first. I would like to say that I am a new citizen. I am also "Another Mother for Peace," because of people like you, it is worth it to be a citizen of this great country. To make things right where they're wrong. Thank you for being.

Ellsberg: Thank you.

Marie: Thank you for calling. Is, how typical is this kind of comment in your travels.

Ellsberg: In terms of calling shows, many people pick up the phone to say thank you on those terms, and, of course, I also get people who denounce me or question in many ways on calling shows. On the campuses, the questions cover the substance of what I've been talking about, but they are most all friendly on campuses.

Marie:

We have some law students in our audience as well as lawyers, and some undergraduates at Duquesne. Let's take a question from a member of the audience now.

Speaker:

Dr. Ellsberg, in your book you discuss the problem, a lot of problems in Viet Nam, being a covert operation and, first of all, you're advocating a position that this covert operation works to the detriment of informing people, and the proper work of the government. Would you draw a distinction, if you see one exist, a distinction between proper, proper position of a covert, or secret working of the government in a foreign policy area, as opposed to that point at which you feel covertness is no longer proper.

Ellsberg:

Of course, the word covert, actually, is usually meant to refer to quite a small operation involving a few agents usually run by the CIA or something like the raids that we ran against North Viet Nam in the spring of 1964, and which lead to the Tonkin Gulf incidents, which then lead to the Tonkin Gulf resolution, the termination of the war. I think the point you are referring to in my book is that several presidents have been in charge of such covert operation in Cuba. Laos and other places are so tempted or intoxicated by the political eves of running such an operation over such a wide area that they felt no accountability since their own role is never acted. They merely tried to run the whole Viet Nam war as if it were the Bay of Pigs, as if it were a covert operation, or as if if were Loas, which they successfully kept secret for many years. The effect of trying to mislead the public about our role in such an enormous undertaking meant that almost all the officers of our government were involved in massive deception where lies to the public became even more commonplace and more a matter of habit than telling the truth. Nothing could have been more subversive than a democratic government.

I really think that after the experience we have had with that, a very heavy burden of proof should be put on any, even the smallest little operation that compels the President or his cabinet officers to lie to Congress and the public. The cost is just too great for democracy, and I think the benefits we have imagined from those operations do not begin to compare with the loss of trust in our leadership.

Marie:

Thank you for your question, let's take another one from the audience. Hi.

Speaker:

Hello. Dr. Ellsberg, my question may not be of concern to you, if it isn't, I won't mind you're telling me so, but I ask the question in a kind of personal way. When I was in the Air Force, as an officer, weapons officer, I was forced as many people are, to handle classified data and which ranged anywhere from classified, confidential to top secret; and of course people within the military structure and within the Defense Department are trained not to disclose information of such a nature, that is classified, regardless of the purpose of the classification, and so my first reaction when it came to the public attention what you had done, was well you had been a bad, that you had released information that should not have been released regardless of its moral need, but, subsequently I changed my view on it and I decided that the magnitude and importance and moral sense, and the need for public information was so great that you did the right thing, and I was pleased you had done it and I admired your courage, but it left in my mind a question which I have not been able to answer and that is, the court is going to have to deal with the strict issue of whether you did a wrong thing and balance the probability with the good that came of it, hopefully that is just what they will do. wonder how the courts or how the government should set guide lines.for certain kinds of information that should or should not be disseminated when you feel a compulsion to do so.

Ellsberg: Was that the end of your question?

Speaker Yes, I guess so.

Ellsberg: I didn't want to cut you off.

Speaker: No.

Ellsberg:

Of course, the court strictly speaking won't decide whether it was a good thing or whether good balanced wrong, or what not. The courts will address me. The question of whether a law, a Federal law has been broken, or a constitutional law has been broken by what I did. The facts of what I did are not in much dispute or they won't be as the trial goes on. The real issue in my trial is whether there was any law, in fact, that applied to what I did. In your case as a military officer, the universal code of military justice applied and you certainly could have been court martialed for breaking the rules. As a civilian, which turns out there is no counterpart to the British Secrets Act, which makes it illegal to give official information regardless of intent or regardless of the content of the information just by virtue of someone having said that it is secret. not have that law. What the Justice Department is proposing to do here is to reinterpret existing laws, like the Espionage Act which has never been used for anything but espionage, and they are not charging you with espionage, but with a violation of the act in the course of giving this information to the American people. If I am convicted there will be new law, and there could be new procedures. I think the question you are really asking though, was should there be a law, and again is it right or wrong to do this. You know, someone who found himself in a position very like the somewhat combined elements of yourself and mine is Sgt. Lonnie Franks in Thailand. Recently, you found that his superior sergeants and officers were ordering them to falsify reports that were going to the President about General Lavelle's bombing raids in North Viet Nam.

Ellsberg:

200 officers and men were spending their evenings falsifying those reports on direct order, making up what they had to say. Franks decided that had to be an illegal order and he did not know what to do about it, and he could not tell his superior who had given the order to fix it, so he sent word to his congressman, to Senator Hughes, that was certainly a violation as you would recognize of the rules on classification. It was a violation of the order which he felt to be illegal andwrong. When I read that I felt he had faced the same decision I had and that he had made the right choice. I think I made the right choice. I think the other 200 officers who obeyed those rules and who perhaps avoided a court martial, Franks was not court martialed as it happened, but could have been, I think they were wrong in doing that, but that does not mean there is an easy answer to what should be kept secret or not. I think that the simple little rule that the officials of the democratic government have no right to lie to the people and have no right to penalize or prosecute people who reveal their deception or their illegal activities, I think that is a very basic principle in a guide line.

Speaker:

So then you would in a way, I think, draw a line between secret data or data that is withheld from the public as to the conduct of a government, within its borders or without and defense information that might be of a critical nature.

Ellsberg:

Well, I think that no American citizen who is an official, whether he is civilian or not, can really sign away his responsibilities as a citizen, or his responsibilities to his countrymen or to the constitution, the other branches of the government and say it is my bosse's responsibility entirely. Naturally an organization works, conveys the presumption to its superior when he tells you something. Whether you entirely blind your eye to the contents of what he is asking you, I do not think that democracy can function this way. To put it in more general terms, I do not think any more, and I believed as you did to begin with,

Ellsberg:

I think I was as shocked when I saw Leek sign his papers as you say you were when you first saw the Pentagon Papers, but having had to think about it quite a bit, I think I would not leave to the Executive Branch alone, going right up to the President, even the President, the exclusive determination of what the public should know about how he is doing his job and about how his subordinates are doing their job. Congress has to share the determination and the form. I think they have got to take up the responsibility, and the courts as well. Thank you.

Marie:

How long before you actually did reveal these papers did you feel that you had to, you knew in your mind that you had to make known these papers.

Ellsberg:

I think really not until I had finished reading them, because to that point I had read the earliest parts which I had left until last, the parts on 44 to 54. Notice, I noticed there are a lot of wrap-ups about the war right now by the way, as they see peace coming. I was just reading "Time," and "Newsweek," and I noticed a great tendency in all of them to describe the war as having varying length, but often Henry Kissinger said ten years. "Time" said something like 10 years or fifteen years which revealed that many of you do not know if you have not read the papers, the Pentagon Papers. What they revealed to me during the earliest part was we had a war here in which American involvement had been critical going back really to '46, certainly as early as '50, that is twenty years, not ten years and that is five presidents, not three presidents, and to see that is to see that there is a pattern of deception that I did know about from my own experience in the Pentagon, were much deeper and broader than I imagined, they weren't to be changed just by changing the man who is in the White House.

Ellsberg:

The broader government, the press, the Congress, the courts, the public, really had to take a more active role to cover these presidents and their policy, but I do not think I saw this until I read the earliest period. The other part of the earliest period was to reveal the war as really having been illegitimate in its origin. Again in all these wrap-ups we hear great emphasis on the good intentions that brought us, not that sent us astray. Now the intentions that we see when we read those papers are very clear. In 1946. 7. 8, 9, 50, right through 54, we were to back up what we clearly saw as a French attempt at the military re-conquest of its former colony. Although that may look like good intentions to, even to a Frenchman or an Englishman, even today with their colonial past, it is really hard for an American to read that period and say that was good intention.

Marie:

Well, what transpired between the time that you made up your mind to do it, and actually did it. Did you discuss it with many people.

Ellsberg: It was a matter of hours.

Marie: A matter of hours.

Ellsberg:

As a matter of fact, I woke up one day, I told the story before and I, a few times, but the general problem was very much on my mind, but the Pentagon Papers as a way of changing the situation did not come right away. I think I read the papers one morning about a new set of rules, the kind we find every week, but on that particular day it had to do with why a Green Beret murder case was being dropped, and everyone in the system from the Green Beret sergeant up through the head of the Green Berets and General Abrams, and the Secretary of the Army, and the President, himself. were all lying to protect their own responsibilities in this case, and I suddenly decided that this was enough.

Ellsberg: I had in my safe 7,000 pages of evidence on the spies. If this system of deception is ever going to change it is only going to be because people understand how pervasive it is, and I said okay, I am not going to lie any more on this subject.

Marie: You did not talk it over with your wife, or ...

Ellsberg: I was not married then, and thought it were near it, my wife and I, Patricia, whom I am now married to, were not together at all then. I went to a close friend, Tony Russo, and, said "Can you find a xerox machine somewhere," and we have never been able to remember whether it was that night or the next night that we started xeroxing the papers.

Marie: We'll continue our program with Daniel Ellsberg in just a moment. I mentioned to Dr. Daniel Ellsberg a moment ago, or fifteen minutes ago that Vice President Agnew was not among those people who were, what you might say, touched by your nobleness in revealing the papers, the Pentagon Papers, and there was an article in yesterday's "New York Times," which had to do with Vice President Agnew's appearance on a TV show on which he said and I'm quoting, I'm quoting from this article. "whether a person steals Larry O'Brien's secret papers, or steals the Pentagon Papers, he should be punished." This is Spiro Agnew speaking. "I didn't see any of these cries of moral indignation against the person accused of stealing the Pentagon Papers." Will you respond to that Dr. Ellsberg.

Ellsberg: Well, I think as I said earlier the dominant cry, or the dominant communication that went out was a 115 year indictment issued from the Justice Department. I happen to think, by the way, that that was their form of the cry of moral outrage. Uh, no law as far as we can tell, my lawyers and I can tell, no law has been broken in this case by any earlier interpretation, of the existing law, but I think they were trying to tell the public something by that indictment. It's an expensive one for me. I guess they were trying to tell the press that whether they can even

Ellsberg:

convict me or not, they can make me spend a couple of years raising money and defending myself in a court, and raise over half a million dollars, and that you should think twice before you choose to embarrass an official, a high official of the U.S. Government. I'm sure that message was gotten by many people. On the other hand I am glad to see that my indictment has not stopped the process of revelations. If we look at sav Cy Hersh's revelations alone in the last year about My Lai, the Pierce Panel Report. Weather Modification, the Lavelle Bombing Raids, the Army surveillance under the Democrats in 1968, all of these based on secret documents, and all of them I would say, very important to have gotten out to the public, without exception. I'm glad to see that that cry of outrage from Mr. Agnew and Mr. Mitchell and their boss, Mr. Nixon. did not stop the conscience of some official who gave that information.

Marie:

You're making a speaking engagement in order to raise money for your defense.

Ellsberg:

The money, uh, they're not all paid, but most of them are paid, and that money does go to the defense, after taking out taxes, which go to the prosecution of course, and to the war, Uh, but what is left for me goes to the defense entirely. However, I wouldn't be doing speeches mainly for fund-raising, there are other activities that would bring more money for the defense. I'm doing this mainly in order to speak about the war, and civil liberties in general before the election because I think they are a crucial issue.

Marie:

Next we have a question from the audience, Hi.

Speaker:

Dr. Ellsberg, it seems apparent that we are approaching the point where we will have an all volunteer army, and I wonder what the implications are of this for a man who rather than just going into the service for a two year period with really having no allegiance to the military in the long run, and being exposed to these kinds of things and coming back to civilian life, and having an opportunity to at

Speaker:

least tell others about the kinds of things he's exposed to, as compared to the mán who's going into the military and making a career out of it, and spending his lifetime there and being in more of a position to let's say, be coerced by his superiors, to be kept in line, and uh, and if you do see this as a problem, what kind of jets can we build into our system to prevent that kind of thing happening?

Ellsberg:

I don't really, I know many people who believe as you've described there that the draft is protection to us. I don't think it's really worked that way. Uh, the, on the one hand the draft enabled several pres, well Johnson and Mr. Nixon, especially Johnson, to enlarge the war and so quickly without going into mobilizing reserves, which would have caused him to go to Congress, which he shied away from doing year after year, and it made possible the very great enlargement of the war, uh and I think I would do so in the future, so I'm glad to see people get away from the draft. As far as protection from say abuses on the battlefield or lies, I mentioned Sgt. Lonnie Franks a moment ago who told the truth about what General Lavelle was doing in Thailand. Now, I read that Franks was on his second tour, and he was an Intelligence Specialist. I would guess that he was a regular or at any rate, was there longer than a draftee. Sgt. Burnhard, the one at My Lai who refused to the order from Lt. Calley to fire on the civilians was again a regular, and I think that's no coincidence. The regulars, both enlisted men and officers, like Col. Herbert and others, who spoke out against practices of torture had professional sense of what an army should be doing, the honesty that should be expected from officers. Then I think we're, I think this sense was outraged by what they saw and they spoke out against it. The draftees, the administration was very careful to keep the draftees there for just twelve months or less. I think the draftees in for a short time felt well I've got to get through this, I'm gonna be out of here, I'm gonna be out of the army, felt really less compulsion to ring the bell in any way that might have jeopardized him.

Ellsberg: In a natural fact, I don't think it was mainly draftees who put the pressure on these subordinates. So from both points of view, I think a small army is better in that it will give less lee way to future presidents to involve us in major wars like this one without congressional action.

Marie: Thank you, we'll have another question from the audience. Hi.

Speaker: Hello. Dr. Ellsberg, you've been involved in a series of legislation at this point, particularly on the appelate level. Could you give your views as to the justice you have received, and just exactly your impression of the American judicial system.

Ellsberg: I'm a beginner in the American judicial system. although, of course I know more about it being a defendant than I did a year ago. My experience. earlier experience was with the Executive Branch of the government, then gradually I had some with which I was a little disillusioned eventually. Then I had some contact with Congress, which was not entirely inspiring and now with the courts. I'm afraid, you know, all these are very human institutions and none of them are really inspiring. Currently I feel that we are getting as fair a trial as is possible to get and quite a fair trial in this system, but that very much reflects the fact that we have enough public support to be able to obtain quite large amounts of money; not larger than other political trials have involved, about the same, but that's more than one-half million dollars, all of those trials had a lot of publicity and a lot of public support. I'm impressed that if you didn't have, that if you weren't known, if you weren't notorious, in my case of course, the government made me notorious, by this 115 year indictment and by trying to enjoin the "New York Times" which gave this an unprecedented kind of drama, which never had happened in 200 years. So with that publicity and peoples' sympathy, they would get enough money to pursue abuses in the courtroom, to answer the prosecutor's charge, you know if he makes a mistake, or if he makes a wrong charge or what not, we have, we quite

Ellsberg:

simply can afford to point out that, to do
the legal work that will counter it, and I'm
impress with the problems we will be facing
in getting justice in that court as unknowns
if we weren't really able to pursue that. It's
quite clear that the system is in many ways
balanced against the poor and the unknown
defendant. The fact of judges, by the way, as
our judge happens to be, the common prosecutors
by background. I think that by itself means
they wanna be fair, and are fair in their minds,
I'm not sure that that is entirely the best
situation from the point of view of the
defendants, and there are other things that
I'll learn as we go along. Thank you.

Speaker:

I'm sure you will.

Marie:

Thank you. We will continue our program with Dr. Daniel Ellsberg in just a moment. ... is by Dr. Daniel Ellsberg are contained in this book, "Papers on the War," which has to do, of course, with U. S. policies and strategies in the war. It came out a few months ago, by Dr. Daniel Ellsberg. Let's take another call. Hello.

Speaker:

Hello. I'd like to ask Dr. Ellsberg, does one man have the right to decide for 200 million people it's morality. I have two more parts to that question, but I'd like him to answer that first.

Ellsberg:

Of course not. No man, not me, not you, not the President. Of course not.

Speaker:

When you took those documents, you did it out of a sense of deep moral feeling.

Ellsberg:

I certainly didn't do it out of any mistaken notion that I was determining the morality of this country. The problem that I had to face, did I have the right to continue to conceal those papers, or should I share them with the

Ellsberg: American public, and I did what I thought

was right for me to do in that situation.

I wasn't determining anyone else's morality.

Speaker: Alright. Now did you expect to be brought

to trial because of violation of your office.

Ellsberg: Uh, I expected to be brought to trial because it was going to be extremely angering and embarrassing to the Executive Branch of the U. S. Government which has and practices the power to bring people to trial. It was a violation of the regulation of the Rand Corporation of which I was an employee. It would have been a violation of the Executive Branch if I had been an employee of the Executive Branch, it was not in fact a violation

of law.

Speaker: I know there was nothing very, very military in there, but let's suppose if you are found innocent, would this not set a very dangerous precedent for people in other high security position, thus allowing them to believe that you did it out of what you think was morally right. Their morals might be those of Julias and Ethel Rosenberg, who might have given those secrets to the Russians, for the sole purpose of

cleansing their souls.

If I'd given the papers privately, covertly and Ellsberg: privately to the Russians, for whatever purpose, I would have been guilty of violating the law, the Espionage Act of 1917. That act has never before been used against someone who has given information to the American public, and if wasn't intended to be used that way by Congress. That's what I mean by saying in fact, I violated no law, by any earlier standard. I think the question you're really raising basically, is should there be a law. Should Congress perhaps pass a law, or should we hope that I'll be convicted, in which case, without Congress acting, there won't be a new law, because there will be a new interpretation of the existing law.

Marie: Unintelligible.

Ellsberg:

I think not. Well, it would mean that as in Britian, or as in Russia, that simply giving, not to compare those two, that simply giving information stamped official to a member of the public or Congress, who isn't authorized by one superior to receive that, would be illegal, that has not been the case in the past. I think the question he's raising, let me answer this way, as it is now, 100,000 individuals can decide for you and the rest of the American public what the public cannot see, in effect allowing without guidelines and without appeal simply by stamping that piece of paper with a stamp they have on their desks, Secret or Confidential or Top Secret. Allowing 100,000 individuals in other words to decide, this is too embarrassing, this reveals a lie, this prediction might be disproved next month, and thus it is not protected by the First Amendment, and is not to be spoken of freely. That almost nullifies the First Amendment, the Freedom of Speech, and its purpose in the fields of foreign affairs and defense, that has to change, I think.

Speaker: But those people are elected by the people.

Ellsberg:

Oh, only one of them is, the President of the U. S., the other 999,999, that I spoke of are not elected. They're appointees, they're civil servants. I had more power when I was a First Lieutenant in the Marine Corps, to decide what the public should or should not see, about what I and my boss were doing, an elected Senator of the U.S., has as they now interpret responsibilities. I think that's wrong, I think a Senator should have more power, and a First Lieutenant for that matter should have as much power as any official of the government.

Well, you're saying then that absolutely Marie:

everything about government and military

business should be open to the public, everything.

Ellsberg: No, no I'm saying that the judgment as to what

should be known should not be made by the Executive Branch alone, which will be, which is to be touched by that information, and if we're to have more than one branch of government, then the checks and balances have to operate in a way that allow congress to be informed. Congress should be part of that process, courts should be part of that process.

And I think say courts for example.

Marie: ...and the risk, the danger of leaks then

when you expose this information the, to that

many people.

Ellsberg: I'm saying right now, I said 100,000 could

decide whether something should be classified

Marie: Overall when...

Ellsberg: We're now talking ...

Marie: documents was not known by 100,000.

Ellsberg: There are many secret documents that are known that are available to 100,000 people,

many, and the great many, it would typically be a document. The U.S. Senator, the Chairman of the Committee, could not get, if he asked, the Pentagon Papers for example are now available to everyone unclassified. of the documents in those papers would have been accessible to 10's of 1,000's of people who had the right clearance, others not, but many of them would. If Senator Fulbright, Chairman of the Foreign Relations Committee, four times asked in writing of Secretary Laird

for that study to be given to him on a classified basis, not for open hearings, but for him to read, put in his safe in the U.S. Senate Foreign

Relations Committee, all of his personnel are cleared; four times Secretary Laird refused that,

Ellsberg:

to give him any of the Pentagon Papers without even invoking Executive Privilege, he just said in fact, "Sorry, I won't," that's the situation I'm talking about. I had them in my safe. I was the one who had them according to the rules, it was Senator Fulbright who couldn't get them, he was the elected one, not me ,and not Secretary Laird either.

Marie:

We have a question from the audience.

Speaker:

Dr. Ellsberg, considering the impact, or perhaps the lack of impact of the Pentagon Papers in your subsequent book, you use terms of perhaps, apathy, lack of interest, uh, and varying other terms, do you think perhaps it might not run deeper than that. I noticed in your book to quote Albert Spear extensively, you've also used the term cynicism, but you quoted Albert Spear extensively that he could have known, but he elected not to know, do you think that perhaps your colleagues at Rand, who you said could have access to this, and just elected not to read the 7,000 pages of the McNamara Report. do you think that perhaps they're all guilty of what Spear accused himself of, maybe we just don't want to know. Maybe people shy away. It's pretty hard for a person to look in the mirror and say I'm ugly, and perhaps in reading those papers they would have had to make that realization. Do you think the subconscious thing was....

Ellsberg:

I think there's no question there is what I called, a need not to know, along with what they say in the security system, the need to know. The need not to be burdened with the responsibility and challenge of knowing painful truths that would challenge you as a democratic citizen to do something about it. You know, the Russian people are relieved of any feeling of guilt or shame about Czechoslovakia! First of all, they're press doesn't tell them about the invasion of Czechoslovakia. Second to the little extent that it does eventually get through, it, they hear only lies.

Transfer of Alberta

Ellsberg:

Not lies unlike what we've heard fromour administration, but they hear nothing but lies, and third, no one thinks to hold the Russians responsible for what their government does. Everyone knows they have nothing to do with it. It's conceivable that the American people could come to envy that state of mind, and be ' rather tolerant of measures, to abridge freedom of press, so no one else would have to accuse them and say they were guilty and responsible, this is the burden of democracy maybe some people are getting tired of it.

Speaker:

I have a second question, you, at one point in your book said that you were at a meeting and a number of people were sitting around the table, and the thought occurred to you that you were the only person in the group who could, at a later date, be accused of being a war criminal. If, in fact, you consider yourself a war criminal, how high up in the chain of authority do you think this prosecution should be allowed to go. If you would consider just for an example, the Calley incident in My Lai.

Ellsberg:

I think that sentence has often been misread. because I didn't mean anything very pretentious by that, I was really only saying that, putting on airs I was not Albert Spear any way you look at it. I was saying merely that I was the ohly person at that table out of lawyers and professors and churchmen, who had actually been an official during the process of build up, which was I think, a period of our carrying on aggressive war against North Viet Nam as I now understand the law. I didn't see it that way at the time. I was just saying then, that as an official who had taken part, now I wasn't a very high official, but I was the assistant to an Assistant Secretary. Two lawyers at the Harvard Law school wrote a paper on the

Ellsberg: circle of responsibility, and they wrote in that. Daniel Ellsberg, in his position. was at the outer, knowing my position, was at the outer level of those who were punished for war crimes in Nuremburg because I assisted a high decision maker, and he was very much within the circle of those who were tried. That was one answer, one legal answer to the question. The main thing that I got really from Spear that you quote was the sense that especially for officials ignorance is no excuse. They want it to be an excuse, but, there and so they keep themselves ignorant of, say what the impact of the war is on Viet Nam. The figure I gave earlier of six million victims in the Nixon administration. I don't believe there are, well that comes from official figures, but they have to be pulled together. I doubt if Henry Kissinger could answer that question correctly. I doubt if he's asked the question, "How many people have we actually killed." He's protecting him, just as his predecessors did, he's protecting himself from that knowledge. And what Spear says, "If you're in a position to know, and you don't know. it's because you've chosen not to know, and it doesn't relieve you from responsibility."

Marie: Thank you very much, "we'll continue with Daniel Ellsberg in just a moment. We talked briefly before, Dr. Ellsberg, about what you did and the Watergate Incident, while you did respond to it, you said you wouldn't mind talking about it again. What was the other point you wanted to make about it.

Ellsberg: Oh, it was just that the comparison has to do with they say on the notion of theft as you put it. Of course in my case there was no question of Breaking and Entering and Burglary and using rubber gloves and what not. I had the papers in my safe.

Ellsberg: The issue really that confronted me was shall we say the issue that would confront a Republican official who happened to know, is very hypothetically, who happened to have the documents in his safe. It told about the Watergate Incident, the bugging of the Democratic National Committee. He would face the decision as I did. do I have the right to keep this a secret, certainly my bosses implicitly expect me to do so, and order me to do so. Do I have that right, or should I do it. He has to make that decision. Incidentally, if he was an official of the government now, he would have nowhere to go with that piece of paper but to the Attorney General in the Executive Branch. those papers actually implicated the Attorney General. as by hypothesis they might, I think one can see the inadequacy of that set of rules right now, and the need for there to be a channel to go outside the Executive Branch without fear of being prosecuted to say the least. As in Sgt. Franks case, or as I did, I went first to Senators, of course, and tried that route. So the uh.

Marie: In the remaining minutes we have, Dr. Ellsberg,
I would like to talk to you a bit about the
personal aspect of all this. Your future, for
example, do you feel that your future will be
hurt as a result of this, or helped or what.

Ellsberg: Well, I would have said, my future so long as the war is continued, speaking and writing and thinking about the war, and trying both to understand it and to resist it. If the war is coming to an end, or at least our combat part of it is coming to an end, which I hope, I'll be able to turn to other subjects, and that will be very, I'll be very happy.

Marie: How much has it interferred with your own personal life.

Ellsberg: Well it's changed my personal life a good deal actually.

Marie: In what way.

Ellsberg: Well, my wife is as concerned about the war as I am, and at this moment she's off speaking about the war, too, it's really separated us while I've been doing speaking and writing the book, I must say it's separated us almost more. That was a terrible thing for her.

Marie: short order too\_\_\_\_

Ellsberg: Well, it was short, but it was sort of around the clock for awhile. My wife likes to meet wives of other authors. They get together and she learns that she wasn't alone. So the trial is almost a pleasure for our marriage, a honeymoon, it brings us briefly together.

Marie: You know, this is a time of being together, and there is a time element on that as well.

Ellsberg: It depends on the Supreme Court, whether they take up the wire tap deal, it might be in a couple of weeks, or it might not be until the spring, it depends on how they feel.

Marie: There are times when our fear seems to be greater than other times, do you have these moments Dr. Ellsberg, when you're frightened.

Ellsberg: Well, you mean frightened about the trial.

Marie: Yeah.

Ellsberg: The thought of being separated from my wife I've come to recognize is the essential penalty prison imposes for a married man, or a man who loves, whether he's married or not, and that is a very heavy, that is a frightening thought. It comes sometimes, and I try to forget about it.

Marie:

You say not to believe everything that appears in this "Playboy" magazine article of the October issue, but there was one little item, maybe it's just as well, that we'll check it with you here, but it said that your wife was in some way related to a fortune and that her allowance was withheld as a result of her marriage to you.

Ellsberg: That wasn't a question of allowance, it was a question of her father not at all being sympathetic politically and not wanting.

Marie: He's friendly with the administration.

Ellsberg: Oh yes, he's somewhat to the right of this administration, but he tolerates it. Like some others.

Marie: Well, is it true then that uh.

Ellsberg: It's true that she, he did not want any family money, including her's to go to the trial at all.

Marie: The article also said that you did not receive the "peace" as a result of what you had done in revealing the papers, but that rather than bring him fulfillment, is asking to stir within him new drives, new furies, new imperatives.

Ellsberg: I thought that was a very foolish comment because you can't get from the article the simple perception that the war goes on. The Pentagon Papers didn't end it, none of the other demonstration ended it, and now I, like many other people, have been spending essentially full time before the Pentagon Papers, and after it, doing what we could to inform the American public and try to bring the war out. He seemed to, he seemed to think that my concern about ending the war was a concern for validating my particular active mind, but as I said at the beginning of the program that's very foolish, I couldn't care less whether the Pentagon Papers are to be given any credit at all for this ending to the war, or whatever, or Richard Nixon, or Henry Kissinger, of whoever, if the war comes to an end, I will be able to relax in a way that he thought I should have done earlier.

I certainly think there was no way I could relax in the months he's talking about; Ellsberg:

while the bombing expanded.

Thank you very much Dr. Daniel Ellsberg, and thank you for being with us today. Marie:

advised on November 7, 1972, that on wednesday, November 1, 1972, Dr. Daniel Ellsberg gave a speech in the Students' Union Ballroom of the Duquesne University campus, Pittsburgh, Pa. His appearance was sponsored by the American Civil Liberties Union and the Duquesne University Forum. The program got underway at about 8:00 p.m., and ended at about 10:00 p.m. Approximately 800 persons were present during this appearance.

stated that the program began with a brief description of the American Civil Liberties Union activities and subsequently Daniel Ellsberg came to the podium. He stated that he had decided that morning not to speak as he actually did about the facts of his case, but instead to speak on the Vietnamize War and all the behind the scenes activities which has surrounded it. He came across as presenting a fairly intellectual discussion of this topic. His presentation covered many areas, but the jest of it was that the U. S. knew full well what it was doing when it became involved in the Vietnamize Conflict and that this involvement began and continued because of political and moral reasons.

The source stated that a brief question and answer period followed the speech. The purpose of this evenings event was to raise money for the ACLU and the Ellsberg Defense Fund. A \$2 admission charge had to be paid by all except Duquesne University students who paid \$1 each.

The source stated that the speech program was followed by a "wine and cheese" reception for Ellsberg in the Faculty Diningroom, Duquesne University, Pitts-burgh, Pa., with a cost of \$5 per person.

# Of Viel Escalation.

Daniel Lifebelg to splace as a highly serious, even selection individual, but 122-beig had to smile, the text as about Bernzed Barker, the CIA traducte whose his was to content to the first or the Committee to Respect the President.

In Miand yesterday, a criminal court judge really threw the book at Bernard Barker. He semenced him to 60 days on probation and took away his notary public's real

"And will it was more that Lavelle got," raid Daniel Elichard dollar.

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東京 丁十十年 日本本村

While John D. Livelly put for authorizing 24 hambling roles of or Borth Vielham at a first when the L. S. Air Force was rell supposed to be bombing North Vietnam at all was retirement on a general's pension, may of it tay-free.

know how successive abilitional from Truman to Nixon had deceived them conversing our rime and intentions in Victoria, could read the rest of his life behind how.

Supporting between now and spring has will be tried on 15 counts for which the penalities and up to 115 years.

The chances of conviction, his law-

Ell-berg was in Pittsburgh yesterday to make a speech It's the way he husthe money for his defense.

Since June, when his contract exlined, he has not had a paycheck from the Hand Corporation, the brain factory the Pentagon uses in researching ideas the professional thinkers who advise the fresident run up the flagonic to see if they're red, white and blue. Ellsberg became sort of pursona non-grata with his bosses at Rand after concluding that one project he had worked on, a study of the U.S. decision making in Victnam, might be the whole country's business rather than a jillion-word memofor the eyes of the inner sanctum alone.

The result of his high-level bean spilling was the Pentagon Papers, published in bus and pieces last year by The New Yest Transports.

No maker of waves could look more subdued than Ellaberg. He has feverish blue eyes, but everything else about him — his voice, his manner and his clothes — is meted. Yet though Ellaberg spoke quietly in the well of Duquense University's gloomy impressive, concrete Student Union building last might, what he said was tramatic and forceful.

Ellsberg gave the crowd of 500 or more a history lesson derived from the Pentagon Papers, which calightened him on the origin of our involvement in Vietnam.

It was 1959, the year of Alger Hiss and Joe McCarthy and recriminations in this country over the loss of mainland China to the Communists – not a good year, Harry Truman and Dean Acheson felt, for losing Indochina too. So we supported the French attempt to re-eslablish authority there.

After that, Ellisberg said, every four years, ocrisis arose as the Communist

North seemed on the verge of winning. Every four years a president of the United States had the choice of escalating our help to the South and restoring the stalemate or of getting out. And every four years he escalated. The rule was: don't lose Indochina before the next election.

#### Total U.S. Involvement

So Americans became accustomed to seeing American weapons killing Vietnamese and seeing it as acceptable, Ellsberg went on. Here was a Communist country invading a country we were obliged to support. But the Pentagon Papers convinced him that the regime in the South, far from being independent, was an American colonial government, its army supplied, equipped, clothed and paid by the U.S. in toto whereas the Russian-Chinese contribution to the war chest of the North was 10 per cent at the most.

Still quoting from the Pentagon Papers, he told have in 1990 the Cross with the knowledge of the American ambassador, abetted in the overtarow and murder of Ngo Dinh Digm, the dictator we had set up and kept in power for eight years. He read about American presidents and generals expressing baf-

flement over the high-morale of the Vict Cong and the low morale of the Victnamese army the U.S. was pushing into combat.

"Maybe we're on the wrong side." said his boss in the State Department, John McNaughton, and last night Eitsberg's answer was, "No, we're not. We ARE the wrong side."

As Ellsberg talked, he warmed to his subject — literaily. He took off his jacket and necktie, he rolled up his shirtsleeves.

He said he welcomes the rumors of reace. He said, "I didn't expect Kuron to do what he's doing. I thought he was a true believer in the domina theory, in the danger of bloodbaths and so ca. It looks as though that was wrong."

And the reason for the change, Ellaborg believes, is that with Geome Wallace out of the picture the President has no fear of a right-wing backlash at the pells.

his hope of acquittal would be, Ellsberg did not say. But noting that he obtained a delay in his trial because the Justice Department tapped his phone, he closed with the following thought:

"If Watergate should receive a man-



DANIEL ELLEBERG We ARE the wrong side!

date. If corruption in this campaign should be endorsed, if Nixon gets a second term, then Congress and the press and the courts can line up on the White House lawn the day after the election and salute and wait for orders."

Comment of the Commen



### Speaks at Duquesae U.

### No Law I Violated, Ellsberg Says Here

By KEN HAPER

Dr. Daniel Efficiency said but eight that it's clear after a year of research that not much the wrong with his release of the Pentagon Papers last year.

Ellsberg sprise at an Anasissa Civil Liberties Union pulbic meeting at the Paragraph Union and Student Union Pullicom.

"There is no low I violated."

Dilaborg sail during an Car
lier press confeature.

Eilsberg and a former colleague, Anthony Russo, at RAND Corp., were indicted in 1971 on 15 counts of criminal charges of espicaces, theft of government property and conspiracy, after they released the Defense Department study of U.S. decision making in Victnam which have become known as the Pentagon Papers.

"My trial less not been delinitely reschedated," sold the former Defense Department consultagi, "If may be unlar a few weeks or as late as spring, depending on the Su-

"I'm delighted about prosparts of ending the war," he said, and added his opinion that the finding was affected by the coming presidential election.

He supported McGevern by saying his circulan is recessary to our "tank or coursently dischainshing under the Nixon planinistration.

"A Nixon bueblide would burt the country." Ellaberg

6: 74060 401

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.8
UNITED STATES GC . \_RNMENT

### Memorandum

TO

ACTING DIRECTOR, FBI (65-74060)

DATE:

11/20/72

FROM

SAC, PHILADELPHIA (65-6346)

Win

SUBJECT:

MC LEK

Re Philadelphia teletype dated 11/7/72.

Enclosed for the Bureau are two xerox copies of each of four newspaper articles reporting on the appearance of DANIEL ELLSBERG at Temple University, Philadelphia, Pa., on 11/6/72.

L.

EX-105

occ.71 ( 1956 4092

2- Bureau (65-74060) (Enc.) 8) (RM) 2- Philadelphia (65-6346)

1 - 65-6346-SUB A

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Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

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4 NOV 20 1072

# '1984' here in '72, Ellsberg fells crowd.

#### By DAVE GUO

1984 may be a lot closer than 12 years, according to Daniel Ellsberg, who gave the Pentagon Papers to the press.

"Assuming you want to be depressed, you might read Orwell's '1984' once again." Ellsberg said at a lecture Monday in Mitten Hall.

"The totalitarian conditions decribed might seem a lot closer to reality now than even six months ago."

Speaking before approximately, 500 persons. Ellsberg said the Watergate affair and the government's attempt to minimize its' significance was one of the teasons he believed "we are making considerable progress to an elected monarchy."

"Perhaps this won't be Nixon's last four years after all," he added

Ellsberg said that if he was convicted for releasing the Pentagon Papers, the United States would be one step closer to total censorship of the mass media.

He expressed this fear by saying that President Richard M. Nixon would remember what impressed him most on his visit to mainland China-"it was the control of the media, not Chinese food or acupuncture."

#### DOUBTS CONVICTION

Ellsberg said he expected to hear from the Supreme Court Monday, but received no word of any new developments in his case.

He doubted, however, that he would be convicted since he believed there were no legal grounds for his prosecution.

He contended that the Federal government had to base its case on the Espionage Act which was passed to protect the country against foreign spies and treason.

"There is no law which explicitly prohibits the disclosure of classified documents to press," Ellsberg said.

"The ambiguous wording of the Espionage Act allows them (the government) to interpret the law to include leakage of the Pentagon Papers to the press," he added.

Illsberg referred to a speech President Nixon mide Monday calling for the American people to free themselves of their preoccupation with fear.

"I do not want to add to their tears," Ellsberg said"but the people must recognize a fear of tyranny when our government is a threat to their freedom of speech."

Ellsberg's appearance was sponsored by the Student Union Board (SUB).

65

(Indicate page, name of newspaper, city and state.) Pare 1 "The Temple News" Date: 11/7/72 Vol.52 Edition: Author: Editor: John Sweeny Title: Characters OF Classification: Submitting Office: Pil Heing investigated

4092

EASY READING FOR HIM: Daniel Ellsberg, here englessed in reading his own book, The Pentagon Papers, will speak in Temple's Mitten Hall Auditorium Manday at 2 p.m.

## Ellsborg to speak

## on wor, freedoms

Daniel Flisberg, who gave the Pentagon Papers to the press in 1971, will speak at 2 p.m. Monday in Mitten Hall Auditorium,

He will speak on the Pentagon Papers, his trial and the Victnam war,

While working as special assistant to the Department of International Affairs, Flishers leaded the special history of U.S. involvement in Indochina, ordered by former Secretary of Defense Robert MCcNamana.

#### TRIAL POSTPONED

Although the U.S. Supreme Court upheld the public's right to know the text of the papers, Ell-berg was brought to trial in Federal court. His trial, however, has been indefinitely portsoned.

Elishery has just released "Papers or the War," a compliation of his papers to help explain the underlying policies that led to the Indochina War.

(inateate page, name of newspaper, city and state.)

> Page 2 "The Temple Kews"

Edition: Vol. 52
Author:
Editor: John Sweeny

Date: 1.1/3/72

Character:
or
Classification:
Submitting Office: PH

[ ] Reing investigated

4060 4092

26 PHILADELPHIA DAILY NEWS TUESDAY, NOVEMBER 1, 1912

## Ellsberg Hero, A Knocks Mixon,

### By RICH AREGOOD

Daniel Ellsberg walked across the Temple University

campus and nobody periced.

He was on his way to a day-before-election press conference that was a blend of civil liberties sended at and election tally.

Ellaberg, who is under Federal indictment for leaking the Pentagon Payers history of the Victnam War, does not, favor the re-election of the current caretaker of that war.

IF NIXON is elected today, a he said, the United States will have made "considerable pregress toward on elected monarchy."

The war, he said, has only "wound" down in American casualties, not Victormese. And the last two days of the war, he said, have seen the heaviest bombings of its history.

The issues to be rettled before ending the war. Ell-beig said, are not miner ones or loose cods. The question of ai coalition government and the disposition of North Victorialicse troops still remain.

	ate page, name of	
news	paper, city and state	.)
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\_"Philadelphia Daily News" Page 26

Date: 11/7/72
Edition: 4 Star
Author:
Editor:
Title:

Character:
or
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Submitting Office:

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65-74060-4092

DANIEL BLUSBERG . . . . nobody poticed

F ....

-350 (11. v. 7-16-63)

# Elisherg to Speak Here Today

Daniel Elliberg, who became virtually a household name when he released the contreversial Pentagon Papers, will lecture at Temple University today at 2 P. M. in the third-finer auditorium of Mitten Memorial Hall, Broad and Perks ats.

The fecture, second of a serics sponsored by the university's Student Union Board, is free to the public.

In 1967-63, Ellaborg worked on then Secretary of Defense Robert McNanarra's study of U. S. decision-rocking in Victnam, which has since become known as the Pentagon Paters.

Ellsberg's subsequent release of the top recret study to the press precipitated a legal battle between the U. S. goverament and the press, centering on interpretation of the First Amendment to the Constitution.

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(Indicate page, name of newspaper, city and state.)

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11-29-72

TO:

SAC, LOS ANGELES (105-27952)

FROM:

FOR THE ACTING DIRECTOR, FBI (65-74060)
W. MARK FELT

ACTING ACCOUNTS

ACTING ASSOCIATE DIRECTOR

MC LEK, SIO.

RE LETTER DATED NOVEMBER TWENTYONE, SEVENTYTWO, FROM SPECIAL AUSA DAVID R. NISSEN, LOS ANGELES, CALIFORNIA, ADVISING THAT TRIAL OF CAPTIONED CASE WOULD RESUME DECEMBER FOUR, SEVENTYTWO, AND THAT FINGERPRINT EXAMINER DEEMER E. HIPPENSTEEL PAREN RETIRED END PAREN WILL BE NEEDED TO TESTIFY.

YOU ARE REQUESTED TO ADVISUS SPECIAL AUSA NISSEN
THAT HIPPENSTEEL IS AVAILABLE TO TESTIFY AND CAN BE
CONTACTED THROUGH IDENTIFICATION DIVISION, LATENT FINGERPRINT SECTION, RELATIVE TO DATE HE WILL BE NEEDED FOR
TESTIMONY AND PRE HYPHEN THAL CONFERENCE.

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Bishop \_ Callahan

COMMUNICATIONS SECTION

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MAY 1872 EDITION

GSAFPMR (41 CFR) 101-11.6

UNITED STATES GC RNMENT

### Memorandum

то

: ACTING DIRECTOR, FBI (65-74060)

DATE: 11/30/72

FROM

SAC, COLUMBIA (65-76) (P)

SUBJECT: MC LEK

SIO

Re Columbia letter to Bureau, 9/26/72.

For the information of all interested Offices, Columbia has checked its on a weekly basis; and to date, the instant transcript has not been received from the Southern Educational Resources, P. O. Box 5966, Columbia, S. C. It may be that the instant concern is holding the release of the transcript in abeyance pending the outcome of the instant trial.

Columbia will continue to check its and upon receipt of instant transcript, will furnish same to all interested Offices.

EX-105

(2)- Bureau (RM)

I - Los Angeles (105-27952) (RM)

1 - Boston

1 - New York (65-25641)

2 - Columbia

JWA:srk

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Transfer In att.

811 PM NITEL/11-30-72 PEN

TO ACTING DIRECTOR (65-74060) ATTN: DID

FROM LOS ANGELES (105-27952) 2P

MC LEK, SIO.

Mra. Noenon \_

Mr. Ecker \_\_\_\_\_ Mr. Bishop \_\_\_\_ Mr. Callahan \_\_\_ Mr. Cleveland \_\_\_

Mr. Purvis \_ Mr. Soyors \_

Mr. Walters Tele. Room Mr. Kinley

Mr. Aimstrong -Ms. Herwig -

HEARING ON DEFENSE MOTIONS HELD BEFORE FEDERAL JUDGE BYRNE. LOS ANGELES. NOVEMBER THIRTY INSTANT. HE DENIED MOTION FOR REMOVAL OF CLASSIFICATION MARKINGS ON DOCUMENTS. GOVERNMENT AGREED TO PROVIDE DEFENSE WITH PAGES OF DOCUMENTS PREVIOUSLY WITHHELD DUE TO SENSITIVITY. PRIOR TO ARGUMENTS ON DEFENSE MOTION FOR MISTRIAL BASED UPON JURY BEING SENSITIZED BECAUSE OF LONG DELAY. DEFENSE ATTORNEY LEONARD WEINGLASS INTRODUCED TO COURT A LOCAL SOCIOLOGIST. A LAW PROFESSOR AND A PSYCHIATRIST WHO HAD SUBMITTED AFFIDAVITS IN SUPPORT OF DEFENSE MOTION. THEY WERE PRESENT TO TAKE WITNESS STAND AND FURNISH TESTIMONY IN SUPPORT OF THEIR AFFIDAVITS. JUDGE BYRNE STATED HE DID NOT WISH TO CALL THEM AS WITNESSES 40 95 AND WOULD NOT ALLOW WEINGLASS TO CALL THEM AS WITNESSES MOTION TAKEN UNDER SUBMISSION UNTIL DECEMBER ONE NEXT. DEC 12 1972

DEFENSE PRESENTED ARGUMENTS ON MOTION FOR DISMISSAL OF INDICTMENT BECAUSE OF MISCONDUCT ON PART OF GOVERNMENT BASED ON COMMENTS MADE REGARDING CASE BY VICE PRESIDENT AGNEW

END PAGE ONE

9 70EU 14 1972

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PAGE- THO

LA 105-27952

AND SENATOR DOLE BEFORE THE ELECTION AND BECAUSE OF AN ALLEGED
PHYSICAL ATTACK ON DANIEL ELLSBERG MAY THREE LAST IN FRONT OF
CAPITOL IN WASHINGTON, D.C. DEFENSE QUOTED AN ARTICLE FROM "TIME"
MAGAZINE STATING "TIME" LEARNED BERNARD RARKER, A PRINCIPAL IN
WATERGATE INCIDENT, FLEW NINE CUBANS FROM MIAMI TO WASHINGTON,
D.C. IN MAY TO HECKLE ELLSBERG AT A RALLY ON MAY THREE LAST AND
TO "HIT" HIM. DEFENSE ALLEGES BARKER AT TIME WAS CONNECTED WITH
COMMITTEE TO RE-ELECT THE PRESIDENT AND SEEK TO LINK HIM WITH
THE GOVERNMENT. DEFENSE SEEKING EVIDENTIARY HEARING TO
DETERMINE GOVERNMENTAL RESPONSIBILITY FOR ATTACK ON ELLSBERG
AND SHOULD RESPONSIBILITY BE DETERMINED, THAT ORDERS OF
CONTEMPT BE PLACED AGAINST INDIVIDUALS INVOLVED. THIS MOTION
DENIED BY JUDGE BYRNE. ARGUMENTS HEARD ON DEFENSE MOTION TO HAVE
DEFENDANTS CROSS EXAMINE EXPERT GOVERNEMNT WITNESSES. MOTION DENIED.

JUDGE BYRNE CALLED JURORS IN FOR DECEMBER ONE NEXT TO

DETERMINE IF THEY HAVE BEEN CONTAMINATED BY ANY STATEMENTS OF

PRESS OR ANY OTHER NEWS MEDIA CONCERNING THIS CASE AND TO

DETERMINE THEIR CONTINUED AVAILABILITY TO SERVE AS JURORS.

ADMINISTRATIVE. DEFENSE HAS ADDITIONAL MOTIONS TO ARGUE.

PRESUMABLY WILL BE HEARD BY JUDGE BYRNE EARLY IN WEEK OF

DECEMBER FOUR NEXT. SPECIAL ASSISTANT U.S. ATTORNEY NISSEN

ADVISED HE CANNOT ANTICIPATE AT THIS TIME WHEN ACTUAL TRIAL

WILL RESUME.

END.

RMS FBI WA DC

ACK THREE CLR

NR 025 LA CODE

12:27 AM NITEL 12-2-72 AXV

TO ACTING DIRECTOR (65-74060) ATTN: D I D

FROM LOS ANGELES (105-27952) 1P

DUBLING COURT CECCION DECEMBED ONE THE THE

DURING COURT SESSION DECEMBER ONE INSTANT PREVIOUSLY
SELECTED JURY OUTSTIONED BY JUDGE BYRNE. AT COMPLETION OF
QUESTIONING JUDGE BYRNE DENIED DEFENSE MOTION TO DISCHARGE JURY.
DEFENSE IMMEDIATELY INDICATED THEY WOULD APPEAL HIS DECISION TO NINTH
CIRCUIT COURT OF APPEALS THIS WEEKEND AND ASK FOR WRIT OF MANDAMUS
DIRECTING BYRNE TO DISCHARGE JURY.

DEFENSE FURTHER INDICATED THEY WOULD BE SEEKING CONTINUANCE
OF ONE MONTH IN ORDER TO STUDY ADDITIONAL GOVERNMENT DOCUMENTS
THAT GOVERNMANT HAS INDICATED THEY WILL BE USING IN TRIAL.
BYRNE SET ADDITIONAL HEARINGS FOR DECEMBER FOUR NEXT FOR OTHER
DEFENSE MOTIONS TO BE ARGUED AND SET DECEMBER TWELVE NEXT AS
THE START OF TRIAL.

EX-105

ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE NOVEMBER
THIRTY LAST.

REC-71 ( 5 74060 40

SPECIAL ASSISTANT UNITED STATES ATTORNEY NISSEN ADVISED IN
ALL LIKELIHOOD IN EVENT DEFENSE APPEAL TO MINTH CIRCUIT COURT IS
DENIED, THEY WILL THEN TAKE MATTER TO SUPREME COURT.

S DEC 12 1972

ENT9 7DEC 14 1972

Mr. Felt
Mr. Baker
Mr. Bishop
Mr. Callanda
Mr. Callanda
Mr. Conrad
Mr. Conrad
Mr. Delbey
Mr. Gebhardt
Mr. Harsholl
Mr. Marsholl
Mr. Miller, E.S.
Mr. Parvis
Mr. Seyers
Mr. Seyers
Mr. Seyers
Mr. Seyers
Mr. Mattern
Mr. Seyers
Mr. Mattern
Mr. Mattern
Mr. Seyers
Mr. Mattern
Mr. M

Q

FEDERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

DEC 05 1972

KNR Ø33 LA CODE

11:21 PM NITEL 12-4-72 RWM

TØ ACTING DIRECTOR (65-74060) ATTN: DID

FROM LOS ANGELES (105-27952) IP.

MC LEK, SIO.

DEFENSE FILED PETITION WITH NINTH CIRCUIT COURT OF APPEALS DECEMBER FOUR INSTANT SEEKING WRIT OF MANDAMUS TO ORDER JUDGE BYRNE TO DISMISS PRESENT JURY.

ARGUMENTS HELD U.S. DISTRICT COURT, LOS ANGELES, DECEMBER FOUR INSTANT ON DEFENSE MOTION THAT GOVERNMENT RESPONSE TO THEIR ELECTRONIC MOTION WAS INADEQUATE. JUDGE BYRNE ORDERED GOVERNMENT TO DRAFT ANOTHER ELECTRONIC SURVEILLANCE AFFIDAVIT.

HEARINGS MAY CONTINUE DECEMBER FIVE NEXT IF JUDGE BYRNE

HAS COMPLETED READING MOTIONS.

REC-71 65 74060 4094

END

HOLD

EX-105

3 DEC 12 1972

9 7DEC 141972

Mr. Baker . Mr. Bishop . Mr. Callahan Mr. Cleveland Mr. Conrad Mr. Dalbey -Mr. Gebhardt . Mr. Jonkins . Mr. Marshall Mr. Miller, E.S. Mr. Purvis . Mr. Soyars Mr. Walters Tele. Room . Mr. Kinley . Mr. Armstrone Ms. herme Mrs. Necnai

FEDERAL BUREAL OF INVESTIGATION COMMUNICATIONS SECTION Mr. Baker -Mr. Callahan Mr. Cleveland Mr. Contad Mr. Dolley Mr. Gebardt Mr. Jonking Mr. Marshall .NR 019 LA CODE Mr. Miller, E Mr. Purvis 556 PM 12-06-72 NITEL JDH Mr. Seyors Mr. Walters TO ACTING DIRECTOR (65-74060) Tele. Room Mr. Kinley . Mr. Armsuong -ATTN: DID Ms. Harvis FROM LOS ANGELES (105-27952) HEARING HELD BEFORE JUDGE BYRNE. U. S. DISTRICT COURT. LOS ANGELES . DECEMBER SIX. DEFENSE PRESENTED ORAL ARGUMENTS SEEKING NEW BILL OF PARTICULARS AND IN VIEW OF SPECIFIC EXAMPLES RECENTLY FURNISHED BY GOVERNMENT WHICH WILL BE USED IN EVIDENCE, DEFENSE STATED THEY WOULD NEED MINIMUM CONTINUANCE OF TWO WEEKS BECAUSE OF ADDITIONAL WORK NECESSITATED BY THESE SPECIFIC EXAMPLES. JUDGE BYRNE WILL RULE ON THIS MATTER DECEMBER NEXT HEARING DECEMBER SEVEN AT TEL A. M. EX-105 LRS FBIHOS CLR REC-71 65 74360-40911 DEC 12 1972

9 70EC 141972

SEVEN.

END

COMMUNICATIONS SECTION

NR 029 LA PLAIN

806 PM 12-07-72 NITEL JDH

TELLINIPE

TO ACTING DIRECTOR (65-74060)

ATTN: DID

FROM LOS ANGELES (105-27952) 1P

MC LEK, SIO.

Wagner

Mr. Felt \_\_\_ Mr. Baker \_.

Mr. Callahan

Mr. Cleveland Mr. Conrad \_\_ Mr. Dolley \_\_

fr. Gebhordt

. Marshall \_\_ r. Miller, E.S.

furvis \_ fr. Seyons . r. Wolters

rle. Room ir. Linley .

Ms. herenc \_\_

AT HEARINGS HELD DECEMBER SEVEN INSTANT JUDGE BYRNE DENIED DEFENSE MOTION FOR CONTINUANCE AND SET DECEMBER TWELVE NEXT FOR START OF TRIAL AND DELIVERY OF OPENING STATEMENTS. A PRE-TRIAL HEARING FOR COUNSEL WILL BE HELD DECEMBER ELEVEN NEXT TO DISCUSS CONTENTS OF OPENING STATEMENTS AND JUDGE BYRNE'S INSTRUCTIONS TO JURY.

ANTHONY RUSSO'S ATTORNEYS HAVE REFILED MOTION FOR RUSSO TO PROCEED IN FORMA PAUPERIS WHEREBY GOVERNMENT WOULD PAY FOR COST OF RUSSO'S TRANSCRIPTS AND EXPENSES OF HIS WITNESSES. BYRNE HELD EX PARTE HEARING ON THIS MOTION DECEMBER SEVEN INSTANT IN WHICH GOVERNMENT WAS NOT ALLOWED TO PARTICIPATE.

END

RMS FBI WA DC

ACK FOUR TELS

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3 DEC 12 1972

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HIDERAL BUREAU OF MARSHRATION COMMUNICATIONS SECTION OF C 0.9 1972

TELETYPE

MR 042 LA CODE

9:30 PM NITEL 12-8-72 PEN

TO ACTING DIRECTOR (65-74060) ATTN: DID

FROM LOS ANGELES (105-27952) 2P

STO.

WIGHER

ON DECEMBER EIGHT INSTANT SPECIAL ASSISTANT U.S. ATTORNEY NISSEN ADVISED HE HAD BEEN TELEPHONICALLY INFORMED BY NINTH CIRCUIT COURT OF APPEALS. CALIFORNIA. THEY HAD DENIED THE ELLSBERG-RUSSO DEFENSE MOTION FOR WRIT OF MANDAMUS DIRECTING PREVIOUSLY SELECTED JURY BE DISCHARGED. HOWEVER. COURT STATED IN THEIR OPINION IT WOULD BE "FOOLISH" FOR JUDGE BYRNE TO PROCEED WITH THIS JURY. NISSEN STATED THIS WAS EXTREMELY STRONG LANGUAGE FOR AN APPELLATE COURT TO USE TO A TRIAL JUDGE AND IT IS HIS CERTAIN OPINION JUDGE BYRNE WILL DISCHARGE THE JURY.

EARLIEST POSSIBLE DATE FOR NEW JURY PANEL TO BE SUMMONED WOULD BE DECEMBER EIGHTEEN NEXT. NISSEN OF OPINION JURORS WOULD 101 74060-NOT BE SUMMONED HINTIL AFTER NISSEN OF FURTHER OPINION DEFENSE WOULD IMMEDIATELY REFILE THEIR MOTION CHALLENGING METHOD BY WHICH JURORS ARE SELECTED IN SOUTHER DEC 13 1972 DISTRICT OF CALIFORNIA. NISSEN ANTICIPATES LENGTHY DELAY BEFORE START OF TRIAL.

END PAGE ONE

9 70E0141972

Mr. Foh

Mr. Baker

Mr. Collahon Mr. Cleveland

Mr. Conrad Mr. Dalbey \_ Mr. Gebhardt

Mr. Jenkins Mr. Maraball Mr. Miller, E.S.

Mr. Purvis . Mr. Sovers . Mr. Walters .

Tele. Room Mr. Kinley \_

Mr. Armstrong . Ms. Hervie

Mrs Leeuca

PAGE TWO

JUDGE BYRNE HAS YET TO RULE ON RUSSO MOTION TO PROCEED IN FORMA PAUPERIS.

LATE AFTERNOON, INSTANT DATE, JUDGE BYRNE INDICATED TO
PROSECUTION AND DEFENSE THAT MONDAY NEXT HE WILL FORMALLY DECLARE
MISTRIAL IN VIEW OF APPFLLATE COURT LANGUAGE IN DENYING WRIT
OF MANDAMUS.

ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE DECEMBER SEVEN LAST.

END.

TMT FBI SOG CLR

MAY 1942 EDITION
GSA FFMR (41 CFR) 101-11.6

UNITED STATES G RNMENT

### Memorandum

TO

ACTING DIRECTOR, FBI (65-74060)

DATE: 12/7/72

FROM

SAC, FAMPA (65-363) (RUC)

SUBJECT:

MC LEK

ReButel, 10/30/72.

The 11/8/72 issue of the "Tampa Tribune," a daily newspaper published in Tampa, Florida, carried an article on page 5b which indicated ELLSBERG's lecture at University of South Florida (USF) had been cancelled and that he would not appear at USF in the forseeable future, according to a USF spokesman.

No further information has been received indicating that ELLSBERG plans to speak anywhere in the Tampa Division.

2)- Bureau

1 - Los Angeles (Info)

1 - Tampa

HCH/pmh (4)

ST-110

**REC 44** 

12 DEC 11 1972

Jown SEO

9 7DEC 14 1972

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

SA FPMR (0 CF 1)4: 115 UNITED STATES GOV lemorandum

TO

DATE:

12/5/72

: ACTING DIRECTOR, FBI (65-74060)

ATTN: DID

SAC, LOS ANGELES (105-27952) (P)

SUBJECT: MC LEK SIO

> Re Bureau airtel, 10/30/72, requesting information concerning "Pentagon Papers, Incorporated", and New York letter 11/30/72, captioned, "Pentagon Papers Peace Project, IS - RA".

Enclosed for the Bureau are five (5) copies of a letterhead memorandum (LHM) captioned "Pentagon Papers Peace Project" (PPP), and two (2) copies for New York.

The IHI is classified "Confidential" as it contains information which might tend to identify confidential sources of continuing value, particularly

iginal information is

iginal information is

Information from except through the issuance of a subpoena duces tecum in the usual manner.

Los Angeles files contain no information which could be used to document

The PPP is currently inactive and is not felt to be in a position to resume activity on its previous scale, if at all. The PPP feeed financial difficulties and depended heavily on volunteer student help which will not be available at this time of year property (Engls 5) (REC. 7)

2 - New York (Encls. 2) (RM) 2 - Los Angeles

(1 - 100 - 80642) (PPP)

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DEC 13 72

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DEC 15 1872 Statings Bonds Regularly on the Payre ! Savings Plan

LA 105-27952

Los Angeles will follow future activities of the PPP through normal source coverage.



#### UNITED STATES DEPARTMENT OF . STICE

# FEDERAL BUREAU OF INVESTIGATION Los Angeles, California December 5, 1972

In Reply, Please Refer to

Title

PENTAGON PAPERS PEACE PROJECT

Character

Reference

Los Angeles memorandum dated and captioned as above.

All sources (except any listed below) whose identities are concealed in referenced communication have furnished reliable information in the past.

This document or stains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



In Reply, I'lease Refer to File No.

#### UNITED STATES DEPARTMENT OF JUSTICE

#### FEDERAL BUREAU OF INVESTIGATION

Los Angeles, California December 5, 1972



#### PENTAGON PAPERS PEACE PROJECT

The Pentagon Papers Peace Project (PPP) is self-described as an organization formed to communicate to the general public the issues involved in the trial of the United States of America versus Anthony Joseph Russo, and Daniel Ellsberg, to be held at United States District Court for the Central District of California, Los Angeles, California.

Set forth below are details involving the location, staff, purpose, activity and funding of this organization:

#### LOCATION

Literature distributed by the Pentagon Papers Peace Project identifies their headquarters as Suite 612, Los Angeles, California, 90013, telephore (213) 489-4250. A branch office is located at 156 Fifth Avenue, Room 527, New York, New York, 10010, telephone (212) 924-2469.

The Los Angeles location is also the temporary legal headquarters of Anthony Russo's defense team headed by Chief Counsel Leonard Weinglass.

STAFF

13 . 7 3 46

DECLASSIFIED BY CORD

ON 5-17-77

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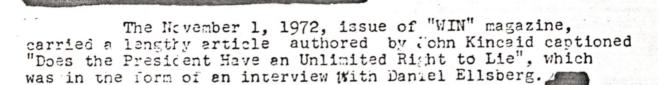
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CEPT WHERE SHOWN





The PAC is an umbrella organization which coordinates demonstrations and other forms of protests against American involvement in Southeast Asia. Irving Sarnoff, its coordinator, was attending meetings of the Southern California District Communist Party, as recently as November 1966.



In this issue of "WIN" a notice appeared that requests for Anthony Russo to speak should be sent to Ms. Norma Whittaker at the PPP, 125 West Fourth Street, Los Angeles.

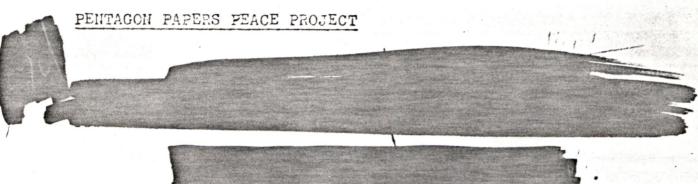
"WIN" is self-described as seeking "Peace and Freedom through non-violent action". It is published twice-monthly, by the WIN Publishing Company, New York City.

July 18, 1972, was distributed on the oneversity of California et Los Angeles (UCLA) campus calling for volunteers to work for the PPP. If interested, the volunteers were to contact Adam Bennion at 482-4250, the telephone number of the PPP

Adam Eennion, Palo Alto, California, is listed as a consultant by the Eusso - Ellsberg defense team with the United States District Court, Los Angeles.







a member of the Weathermen organization and to being in contact with Weathermen fugitaries.

Weatherman, formerly a faction of Students For a Democratic Society, controlled the SDS National Office from June 1969 until its closing in February 1970. Weatherman then entered an underground status and adopted a tactic of "strategic sabotage" with tolice and military installations designated as primary targets.

SDS was founded during June 1902, at Port Huron, Michigan, and in the 1900s functioned as the leading New Left campus based studer t organization in the United States. From an initial posture of "participatory democracy," SDS moved to a radical-revolutionary position, with debate centering on how best to create a revolutionary youth movement. Internal factionalism produced a split during the SDS National Convertion in June 1959, which resulted in the following three factions: Weatherman; Worker Student Alliance (VSA): and Revolutionary Youth Movement (ICM). Weatherman and RYM are no longer affiliated with SDS. The WSA continues to use the name SDS and maintains its national headquarters in Chicago, Illinois.





WSA, a faction of SDS, was expelled from SDS in June 1959, by the then dominant Weatherman faction but continued to use the name SDS and opened an office in Boston, Massachusetts. WSA aligned ideologically with the PLP and in February 1971 moved to Chicago, Illinois, where it opened the SDS National Office at 1225 South Wabash. Its official publication "New Left Notes," is published in Chicago.

The Progressive Labor Party was founded in 1902 by individuals expelled from the Communist Party, USA, for the following Chinese communist line. Its objective is the establishment of a militant working-class movement based on Marxism-Leninism and MAO Tse-tung thought.

The RIM, a pro-communist revolutionary youth organization, was organized in 1939, first as a faction within the Students For a Democratic Society, then as a separate group with head-quarters in Atlanta, Georgia. RYM was unsuccessful in attracting support and by mid-1970 it was practically defunct.

"The Pentagon Paper" the official publication of the PPP has in several issues listed staff members as:

Paul Becker
Jim Berland
Carol Bernson
Jim Bendat
Bob Gottlieb
Harold Moskovitz
C. J. Grossman
Debbie Kaye

Rick Ladd
Roz biberman
Lee Weinberg
Jonathan Olom
Debbie Bachtel
Susan Bechaud
Neal Joldberg

#### PURPOSE

The P?P is self-described in its publication, "The Pentagon Paper" as being organized to insure that the issues raised in the trial of Anthony Russo and Daniel





Ellsberg will be widely communicated and understood. The PPP announced it would produce and distribute educational materials on the war, the trial and the Pentagon Papers, and help others organize around these issues.

Issue Number Three of "The Pentagon Paper" announced that the PPP had launched a community by community area campaign in Los Angeles to talk about the war, the Pentagon Papers and the Ellsberg - Russo trial.

In this issue the PPP indicated joint efforts in this regard with the Indochina Peace Campaign, an outgrowth of the Indochina Peace Project, 644 Landfeir Avenue, Apartment 202, Los Angeles, California 90024, telephone (213) 473-5283. The address for the Indochina Peace Campaign is as listed:

Post Office Box 24-C-51 Los Angeles, 90024 Telephone: 477-0968

The Indochina Peace Campaign is an approved student organization at UCLA, formed for the purpose of advising students as well as the general public as to the fallacies of the United States involvement in Indo-China

This assue further announced that "The Pentagon Paper" was now combined with the "War Bulletin".

"War Bulletin" is self-described as a fourpage paper published every other week to supply news and analysis about the War in Indochina. Mailing address is Post Office Box 4400, Berkeley, California, 94704.

#### ACTIVITIES

"The Pentagon Paper" has published four 4-page issues since its inception numbered consecutively one through





four. Issue one was published in July, 1972 and Issue Four in September 1972. Issues three and four contained inserts of Issues 15 and 17 of the Berkeley "War Bulletin". Publication of "The Pentagon Paper" was suspended following the postponement of the Russo-Ellsberg trial in August, 1972, and has not resumed to date.

In the various issues the PPP announced that the following resources were available to groups through the PPP in conjunction with the Indochina Peace Campaign:

- 1. A 1-hour film, "So The People Should Know" about Ellsberg, Russo and the Pentagon Papers.
- 2. Three slide shows: "Nature of the War in Indochina": "The Pentagon Papers" and "Current Offensive in Vietnam."
- 3. A multi-media show: 400 slides; a 40-page narrative written by Jane Fonda and taped interviews with Tony Russc and Luke Mc Kissick.
- -4. "The Rising Cry for Justice" a room-size graphic exhibition.
  - 5. "Guerrilla Theatre" two skits, "What's on Trial Today" (about the Pentagon Papers) and "Dick's Second Term."
  - 6. Posters
  - 7. "Pentagon Papers Digest", a 50-page booklet of quotes from the Pentagon Papers.
  - 8. A pamphlet "The Pentagon Papers Trial."
  - 9. Tapes: interviews with Elisberg and Russo, commentaries on the war and the Pentagon Papers.
- 10. A book, "The Credibility Gap" which would be available the end of September, 1972.





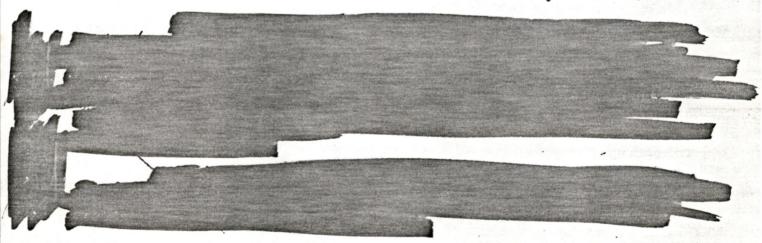
All of the above items were advertised as being available through either rental or purchase.

In addition, and as set forth previously, the PPP could be contacted for requests for Russo to speak and had launched a community by community area campaign in Los Angeles to talk about the War and the Pentagon Papers and the Ellsberg - Russo trial which included leafletting in shopping centers.

#### FUNDING

"The Pentagon Paper" self-advertises that it is distributed free in Southern California otherwise is for sale at two cenes a copy or a five dollar subscription fee. "The Pentagon Paper" has also printed that financial support has dwindled and has requested readers to subscribe or contribute.

As set forth previously, the graphic resources of the PPP are available for rent or purchase at prices ranging from fifty cents to one hundred and fifty dollars.



#### MISCELLAHEOUS

On August 8. 1972, furnished information indicating that the PPP was undergoing internal problems,





including financial and personnel. Several of the staff members had met Ellsberg and formed the opinion that he was a "ruling class mis-fit whose conscience bothered him"and a "honky". In any event the PPP was folding, at least for the immediate future, following the postponement of the trial in August, 1972.

Other confidential sources have furnished no information which would indicate that the PPP has resumed operation to date.

Attached as addenda to this memorandum are the following:

One copy each of the four issues of "The Pentagon Paper".

One copy each of Issues 16 and 17 of the "War Bulletin"

One copy of the pamphlet, "The Pentagon Papers Trial."

One copy of an undated letter put forth by the PPP and the Indochina Information Project advertising their available literature and exhibits.

This cocument contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency nor duplicated within your agency.



# mingon Faver

1.d. 14"2 Peningen Papers Peace Proport 125 W 4th St. Les Inceles California 90014 (213) 480-4254

#### PRE-TRIAL

#### IMPRESSIONS

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Duniel Ellevera



#### THE TRIAL BEGINS

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In 1969, Pon Elistery and Tom Passo acressorates for the Raid Corporation —z private 'think tank' located in Santa Monica.

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Ellisters had been a State Derartment Ellsherr had been a State Department of folial intellection. He had been to Suth Victoria an advisor to the Paurification of Ram. Russy worked on various Rand programs, including reseases existed on the interrivation of N.L.F. prisoners. Both placed key roles in developing U.S. prices for Victoria.

But India the Joseph necessing the technique of the war in liberty and Russy resident transfer.

Billing this helicach necome reprises to the war. Lifsberrand Russonealty of this as smooth for the American people tokens, the information contained in the 31 solumns. That information contained a history of the war, not military secrets. This becan corruing the Pentaron Papers to share it im

The sears later, the New York Times becan rining the Pentagen Pagers. The information that the U.S. had been information showed that the U.S. had been more account on the the U.S. had been shreef the emerge, conference, and the press for the fast fits care. These documents had form a care so conference and them was a conference and the management and its consistency policy of the conference and its consistence policy of the conference and its consistence policy of the conference and its consistence project on the secretary and project for example. from 15 me American prompte from stamme, on that yers same day in 1956 that Government press statements talked about no increase in troops, directives serie office, its gent outgoing an okay to troop in. re. ich

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to sendant is a score statement. An Artidast is a sworm statement, admissable as explene in court. Reper-Manune, former Assistant Sections of State for Police. Information index Presidents Kenneds and Johnson, and present Editor in Chief of the Martie Mort Schaustied an attidasti, excepts of which follows, that describes the widespread use of classified dosernment material, and raises scribbins concerning the posterment's misses in procedure. Daniel Edisors and states secretaries. posenment's mornes in presenting

#### Retert Manning, being duly swern, ...

Recert Mammer, reing oury worn...

I have spent all my afait life in pourration save for two-and-a-halfs cars in government service under Presidents kenneds and Johnson...

My duties deeply engaged my in the overall informational and protic attains programs of the State Department, the White House, and the Finited States Information Agency, involved intimate destines with efficials at all the also of government, the Washington presidency, and familiarized my with the wishings of everyment classification procedures, and in a significant of the manufactures. The comment of the momentations.

There is much continues and misacrethension, and misacrethension, about the way. American officials and pointailists required make use of so-called classified information... in the normal process of trying to inform the public about complicated national and international

(1) The government industricusts, ellen (i) The rovernment maustricusts, eiten caprillosis, eserctions information and documents, there being no hard-ind-fast guidelines as to the application procedures.

(2) If every piece of information or

document that is classified by go erroment officials were kept out of the runite domain, the public would be grossly served and left severely antiformed about the conduct of their country's affairs; without the conveying of so-called secrets to the public there can be no sensible system of communication between the go-ernment and the reople.

and the respite.

(1) ... much of the "classified" information areast what the approximated does or plans or hears or thinks in the

Continued on Page 4

#### SELECTIVE PROSECUTION Why the trial?

The trui of Dan I Hisberg and Trn. Rus in The trial of that Historiang row, kus of boran July 10th Afor a sories of deleting motions to distance of the case were demost by United Stress District Judge William Mitthey Berne fr. These pretrial hearings were very important because they her sed to determine the issues and to establish the Trules of the same?

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A critical countrie was the spectrum in selective prince uton. The defense controlled that known and Elloberg are charged with committing the same with that present any larger programment efficiely prefermed each calculation of the preferment of classified information to the first and the first provide in order to inform the American people. The defense claimed that the fusion Department (na., presenting Littlery and Russin because they are finding and Russin because they are after any haked of emation is enhanced on the I saled states government of the past to

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study was breaded by J. J. Zassort, a petitical securities. How work about with the experiences of the free of opens, — those Communist troops moved Sorth after the 1954 Genes autreaments and shorter national infiltrated South to become the hackeone of the M.L. The survey concentrated on particular political actitudes toward specific exents other own them marth, specific exects aftern exist fluent martin, arrainin reform. Dem, what it was are fighted for extended that the MTE softens size inconsisters. Tryatent's stady concluded that the MTE softens size inconsisters. Tryatents come to first their country from the expression of the American importations the observoirs to the Termin Colonial rulers and ent-olders of the foulful stand cornect flower retines. These Republic transfers of the marting and ent-olders of the marting transfer in the marting and ent-olders. Papele in positive terms of diministry, unitarities, and and to positive and injustice and above all, peace? When Zashell, hearth, John, T., M. Nordton, Assistant Scientisc, return shift time for fidenal Security. Marks, M. Nordton, recognided. The shaft you say in that herefore its true, we're findfur on the expectation. we're lighting on the wring side."

The unjust death of my uncle bothered me very much. The GVN Panetrs killed my uncle and beat me up wern I was just 12 years oil betough this supported do of being VC.... I was seen aners with the GVN. Thereforce left my will were to just wanted to take resence. I dufit I hope the Front on anything for my family either. But gradually I felt the Front was going along with the people's arrivations and had along with the people's arpirations and had won the confidence of the people. The Front troops never beat up innocent people. They never turned the houses of the people and never oppressed them. But the GVN troops did. I am now in just but these never thought that I made a mistake in joining the Front

In 1965, however, the bombine of the North had been, and 190,000 American troops had been committed to Vietnam. It was too late to find this we were on the "wrone side." Thus in mid-lin5 Zasled has as a cld from the study and replaced his Leon Goure, Goure wis a super-hask and pro-late long, the title work continued from mid-lin6 until the specific of linder Goure, the study was executed, force also desired. Goure, the study was expended, Goure also added questions, that death with their experiences or feelings about heime humbed tinder Guerry, the RAME bestimes channed a ratefully. If there personally briefed Surron Hombide of the PAC rand Will. Rostow on the cutous's resulting and emphasized, the letter courses of the American humbing in decreasing the agreement morale. He agreement reported the responses of the AMERICAN windows and of contests. These were moral with high reports the responses of the SLE conference out of construct. There were men who had undergene the hombins and for the most part been surfaced by auto- of charges sustained in bombins. These naturally reported that the bombins was servicing and shook them on the Goare rase in a cubil to the rest of the rase management to the rest of the same parameters of the rest of the same parameters of the rest of the same parameters. hit soldier could continue to perform even under the most territoric and difficult condition.

One i nows that, to make a revolution, one must put up with material deficulties .... That's something one expects in advance, Difficulties do not dominish my belief in final rictory.

According to Fors Mosso, the studies realty showed the NLL postney reads to first on because of his political field and because of his political field and because office period on metals, trust, and semanaleric among the collines and amongsters, and between the wildiers and the people

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Breader of his prostor Torse siens, Contre became vers popular in militars breatment less than stimogen on, thores became in with the less than the less tha related

I was almost killed right in my first I was salmost killed right in mis first bittle, ... Of course, exershold prefers to star firse, Honever, when Livent Swith I kin that I will be not be in idior actioned. I accepted mis sare Many Forth Victomers in one is 11rd, by American homes, and many bottle kinds in serious were were were were were were also belied and disasted by American air and artiflers attacks, so non-can a solder like me avoid death? The point is, sometimes one should all ept death so that his younger constation will from One feels better when he knows this fact of life,

From 194" to 1964, kentral Kellen wrete major reports for the Metisation and Morate study. His conclusions thased on somilar materials to the pressors stolless went revenith so of Zosi it. He reported in 19 9 that NII instralle was both. But no went turther in description the humanity and sincerity of the NLL soldier. The enemy's picture of the world, his lountry, his mission, and our role in his vicinitis in rominfable his simplicity, clarify, and internal consistency. And the tener of his responses to remarkable he the control of his passing, and is his matter-stria trass and clarity, Finally, the responses are improving his their straightfore aranges impression that straighter arabits that Concluding from this side, he arees that fineither ear military actions nor our political or poswar efforts seem to have multi an appreciable dent in the enemy's overall motivation and morale structure. They can perhaps be killed, but they promable cannot be dissuited either by words or by hardships . . The ene scider trasts his leaders, likes political officer, paints strength from political officer, paints strength from criticism-soff- riticism and the inno-man cell, draws prids from his militars successes, is encouraged by what he see: as the unalternates in port and as means of the people, and relies easily on what he invites is the richteouvness of his cause."

Laking back it seems most important that the Lib government had great need for was. From the beginning, the 1 \$
government has underestimated the ability government has underestimated the animos of the Victimans or people to continue a fore-structed around the trabeol around stream of the 1.5. For all the period of 1.5 escalation (1965-0), RAMD ted the military what the indicates wanted to hear. It experiented the effect of our technical constauration descripted the importance of the Victnamese reopte's spirit

The villagers were very glad to see us. They understood the hardships we had to endure and they appeared to have deep someathy toward us. They treated us like members of their tamilies....They helped us great deal. They even cooked meals for us .... Their attitudes never changed during our stay here.

Of the five years of work and 40,000 pages of interviews that make up the Medication and Merale studies, rolls a few edited and cleaned up summaries have been released those from the Gourg periods. Most will neverte seen by the American portle, for reserves an instrumental parties for their contains from many accounts of more criminal and attending, for those secret research, the MT suffers speak, for homeff, their compassion, his directs, his contains for adometric arts in the container of his softation could not a constitute the direct secretary. American people that it is the 1.5 posernment who his standing in the way of vietnamese liberation.

Sincerely speaking, I was income disappointed with the result of any hattle. Fighting the par oculous think that there will be times when we have and times when we wan, and we should not be too cetimine . when we will are his dirappoint d when we have. When we love we must find and what caused us to love and guin experience for the ocal time.



The a test of a memo from James -might offer promise. It should be tudied The a tast text of a momo from James McNa from, Assistant Secretars of Determined to Live, is swind in Not. 4, pap. 43 of the Sendor Gravel edition of the Protagne Papers. McNauchton is talking about it proschibits of bombing the disks on North Nethami. The Amouten of locks and dams, however—if handled right

minguistic promise. It should be stored above people By shifter-flooding the rice, it leads after time to widesprease it reation force that a million!) unit is not is provided — which we could often lat the conference table?"

#### U.S. BOMBS WEAKEN DIKES

The following article is adapted from one which appeared in Le Monde June 7-8, 1972. It was written by Yves Lacoste, a geographer and professor at the University of Paris.

In order to turn the tide of the total defeat of American policy in Indochinal President Assen his faun hid a new escalations. As the himmers of the South, which have reached an unprecidented synteme, have not to tree in halting the dissinteration of the Northameration principle. Norm has briden of the recomment reads on the Northamed will be successful to the comment of reads on the Northamed dissided from a veriew of actions which his incidence works had not directly to his account of the known that the formal principle of the American appropriate for the providents of distinct on the dialog of the Red River. To independ on the Formal Continuous and Continuous actions to the world to compute certain report can be accounted to the North Paul South of Continuous at Largest majorated. In Paul South is sone of trated, in Northamed to Interest In order to turn the tide of the total defeat

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people whether in this plan.

If the fourthern annulation outs open a serie of break, in the network of differ dirth. The rains of our throm Jame to Octobers, it is probable that this catastrophenical Jerosokia Farier europe of Sects. In n the explosion of coveral it must be designed to the Probability of the Company of

seriale place in process it without would also to deal to done any responsibility.

Instruct, in the coming weeks, the dikes can break without direct bombar finent. Items the summers of 1905 on his beautis were directed, and directly on the diless has at a certain distance. The elements craters which were thereby areate had the cratery which were thereby create shad the effect of an earthu take and press feel the "advantace" of apparently not trive ung" the diskey, set of being infinish more destructive. This tactic is complied by a series of air raids to shower pette bombs, on the airckers, who have hurried to regain the damages

There indicates a ctions were carried out in the huntreds in the North durine the summers of 1965, Penand 1967. It is were not I divide the catastrophic floodin rat that time. More than to provoke a catastrophic flort in undivided by way to perfect a facts, and to black may be priced a facts, and to black may.

The priod that these bombardine is were part of a carefully premeditated licitic is evidents this the fact that they were put into action, at very pricise mome ty, one majority just before a violent ran, which meteor lorical of creations were able to Casalo greate t.
Lodge, the failure of the bietna nization

Todas the failure of the Victor Ingilier processor in his hims have been either on two customs of the worse. Afrea is, even before the ereal foodern has been a, mark and himselvship in the dikes. The some different e between mixture book education and the foodern and the expension of the foodern and t planned that the latter could be in freedly prescribed and as rebed to a series of Instance seedents. One would say that the

Institute as extents. One would say that the sorth with moves should have a ten the off-life of their dogs rather than folds. In when alwords a private of their a many will a fine. We moved not was for a specific of the move the ratio of the association to modest. If we not swarp move for proclaims that of the district the other sound motion that of the district the other sound motion to be bought, the many moved does not only the same of interesting the procedure of the same of th their mentionest conference of a second brother from the order for a second brother description. variet on President Ve on, and

#### "THE ENEMY"

From June 6-10, three antique meticans, I in Hasten, Dave P.J. neer Americans, Lin Harden, Dave Delicinent and Rennic Davis, were in Barris, Delicing with "the enemia". This medicate his holised representatives of the American historical systems and the South Agentic, of Authorities of the South Agentical Agency of the South Agency of Resource of the South Agency of Resource of the South Agency of the South Age Resolutionary Governments. Representatives included Newton Mich Vision of North Notice in the description and Made me North North North Indiana in the Park Boll files and PMA included in the Park Boll files and PMA included in the Park Boll files were demand and the internal in the mention of the internal in is the sufference of these talks

What is the goal and nature of the new offensive?

offensive?
The aim is to defeat the Vietnamization policy and to reach the in elementation of our secon-point priorism. We do this through people is war, which is deselled in the assets with level 1 years to a serv with level. In a seria mobile set of senital would have beast guerrilla war. A notice to a senitarious has been actually successful war. A notice to a senitarious has nature not even promare a motivary, but political. For example, after fluinter the mass therested, which is studied to the following the people. If senital is senitarious to this respective has been hardle. The North Victianness people have fixed under health in the continues and their health. The North Victianness people have fixed under health in the continues and north still we are ablect of modern parties and continue our normal faves.

For owith a clear that his token March 30 and total systems is a sourte step of

not ostill clear that is keen March Mi and total sictors is a single step of continuous strucele—armid\_relitical, and deplomatic. Not so no trace steps, but one, we will de exercitine it our power to short in the time it lasts his the fast stare because Victoamization is Nison's last

What is life like in the abstrated villages?
Life is not combotion, that the majority of people still incomes a cause they know of people still frequency is ususe thes know the aim of the enemy is to drive them but of the sillages into camp. Another reason they stay is that life in the camps is not pood people are herded into the camps, women are made into prolitities, there is no way to cam a listing. So people are staying in the liberated trace, some inder the hombs. The people cannot hear the life in the cities, either, especially the pravants who are used to fishing in its 1 that is whis who are used to living in the That is who they stick so close to the land, who they

who are used to thome in the street of the street. We have heard of recent schellions in the cities. What is the nature of these results when a street of these results and the repression which offices then? In Da Sane, 25/29/p. s. e. demonstrated for acceral dass in earn May, structume against the folly freat in or freat perile and against. Thou's dependence on the Americans, At the peak there were desert, but they had a bloody rapression. At the peak there were desert, but they had a bloody rapression. At the peak there were set data and a mare strikes in Sairon. Thirtten the utiles of the Sairon University were so not. April 5-9. They domained the reliable on in gard and bean furthered. Receipts in Da Naria, after the demonstrations, one, than 180 Fast has been arrested. There is also have been agrees und in the urban areas. Though stares carriers. in the urban areas. Third clares curties, martial law, emerging masures, searches of homes, confiscation of popte's properts, with orders to escute all those

the organization in Salvent as a trived The orban situation in Salesin his charged radicalls. Now almost the entire national bourprotities as anti-Thom, and anti-Amerian, because of the economic situation, potental distriction and cultural assault, condition have reproceed to the point where all those were for the middle included included in Jack. If fore this, worker, and students a soft attainer on the cities, but repressions was appoint itself the hoursecoust. Now this to no force true. Repression continues, test it affects excreme, and inners over, one. Has Victeamization fail of the first programmation fail of the strength of the formulation procession.

Has Victnamization fail off. The Victnamization prins his fixed total, and other patients have fail for the post, for one reason to 1.5 want to immode a moneroland from removal a neutron which has been individually on tiphtone exerts agree some however, stream the agrees or has been. The Victnamization

points has a contradiction to force the Victinamine people to just the side again their considerations. The dancer of colleges

on any good marky the color of the state of the color of that Noon has taken the minimize, we discheded the management of the minimize that the minimize, we discheded the minimize that the minimize, we discheded the minimize the minimized in the minimization of all these minimizes minimized in the minimization of minimizers and minimized the minimization of minimizers and minimizers are minimized to minimize the minimizers and mi

hat has been the effect of the boming? What has been the effect of the bomzing? In the behavior of South kirman is a to this of extermination particularly in the areas which the I.S. Souther interpretable in the areas which the I.S. Souther interpretable services I.d. to his behavior of South Arctinan is extremely serviced as their top and the Southe souther the areas are day. Hen long of the South is a similar an populated areas, extress towns, the Jike souther Arctine American people well informed of this?

We must say to sou the hombing is very fier, e, very intense, and of course we have fier, e. sers intense, and of course we have fest many people, but on one three yeu should be clear: the more intense the home near the more may people reality, clearly the Tailure of the Victoriaristic policy and the ostability in Supon. Our offers we and persons will continue. Mare I wire rise and persons will continue the Victoriaristic first makes us optimistic. It was not been at the negotiating table?

negotiating table?

The question is how we can proceed I rapidly to an aerecment. The aerecment will include both military and polytical ware for In this May 8 speech, Nixon e this mention the political question of South Victim, there is viceulating that Nixon is religiously appearance. Victnam. There is secoulated that known is refut, that to resect upon to through on a little to reach an agreement. That speculities may make more than the related a question of houth Victnam. But what Vixtnam and is to separate the military from the political flow is to separate the military from the political flow and to such a second to the victnamization political flow and use that the political flow and to carry out the Victnamization political flow and use in cours forms. This is a were conting managed.

in clear forms. This is a sers curring maneuser. If a do soil feel about Nison's recent summit conferences? Among other thines, Nison's intention was to harrain with our friends to make them to exertence surgeoned amonther reason with disable out freeds from us. This maneuver has not become contributed to the Nison here no we have an independent and covereing, in and have stretchflight forces with its site. We should realize this parts conference, when we distinct the property of the people by these freely to create offlusions, presoile continuous, create from the first hand of the first of the property of the property of the first posteriors. Participater much and out see ingreat popular are the diagram for him to get out — he's looking for some other door.

The prostom provid to the American The prostern posed to the american people is whither a not they can accord policy which constitutes a crime manual viction and all marketed. We beautiful and another more than the right in live and the right to self-determination.

Pentagon Paper nor foliohear tenin seo. that arthurs, artely, and or of was the same retails as to one 1 . 1 1 44 fare remonts.

The bosonment's procession or Russiant I Osberg is, to no means, an evidated backeting. The use of the court, here in the Listed web to another method the first the Listed with an both wards, the Listed received with protecting its can power by whatever means necessary. Any projective soft-determination, whether from a third-world Accounting people to put the soke upon the room shoulders. The fungered of large and discretization for Storen as so reliable to the sound to the so

Trial will breit July 18th at the Federal Courthouse in Line Arrives. The decrease committee is his ated at 20/1 %. Pico 3844. Les Angeres

BILLY DEAN SMITH

BILLY DEAN SMITH

PST Bitts be inhorities a Black man who is assessed of killere two white American officers in kichiam. This will be the first stall in the L.S. for "travering" and is temfed as a ctack from on invarient to of collisted meaning the arm. Present misting were beard in June and were all desect. I real is set for Sept. 1954 at 11. Ord where health as been in softiars confinement at the stockhold some March. Because he is be not freely a military court, Bitts Dean is still four of the death points. The Victiman Veter ins. Amend the War is in softial with the national defence arone softsat with the national defence arone. contact with the national defense group trace of VVAW, 1410 W. Pico. Los

NAVAL RESERVE 19

NAVAL RESERVE 19

you April 19th, a proun took over a 1-5.

Naval Reserve headquarters in the Sin
Fernando Valley. This action who to
persons were arrested its vels, one nonvet, and fire women. Charges are two
counts of treepassing to which all will plead
no multi- Contact the VVAW, 3470 W.

Plan Los Americs. Pico, Los Angeles.

GARY LAWTON

Opening date for the trial of Gary L wien is July 10th in the desert town of India, Cald. Lawton is a Black marine corre-section heire framed for the murder of two seteranheire framed for the murder of the ability Residence of the Residence of the reviewment of the ability and was known as that the Residence of the Reside be reached at P.O. Box 5154, San Bernardino, California, 12498.

RAMON ORTEGA

RAMON ORTEGA

The Irrial of Ramon Orticea is afric. Iy in its closing states in horwalk (Cairly). Ortica has stready sport ten sears in just and could fate many more if convicted of this frampeliag robbers, harge. Ortegs, the father of three, has been active in both the Chain and could great manufacture in both the Chain and present the chain and present manufacture. the Chicano and prison movements. His jury has been subjected to such evidence as The Godfather," in the Godfather, "in the Godfather," one consister, in the loss remaint's effort to compare the Chinano movement with the Mafia. The defense erroup is in need of someone to sure for the remaining \$5,000 collateral needed to get Orioga out on Fail. They are located at 316 W. 3rd St., Les Angeles, \$9,03.

ELMER 'GERONIMO' PRATT

Pratt, the former Deputs of Octobes of the S. Calif, chapter of the Black Pather Party is presently being tried for muriter. The insident occurred in December, 'MS, when a courie were robbed and shot. The when a course were reshed and shot. The husband serviced and, after a sex four time larve, he claimed that Pratt do 18, showing. Define is now presenting her race in the Hall of Justice. The firee Germinol historic grapus he reached at P.O. Box 37514, Los Angeles, 9737.

MAY ANTI-WAR DEMONSTRATORS

MAY ANTI-MAR DEMONSTRATORS
On May Himmere than 30 persons were
arrested at a peaceful and war
doministration held at the tiven
head carretion has kineles. The first of
these trials has not ended and result don
the trials has not ended and result don't be reconsidered. they trials has not ended and result don-consistions of three men, including Rom-kosts, a Victoran verticing confined on a sheelchair. Many of the other are esti-scentred when demonstrators came to Rom's and as he was being beaten by two plain lithey rollicemen. They are charged with infection or with arrest, assumiting an other, and otherwiting tradition. Also arrested was agreed photomy phorab was attemption to photomy and to LA and Sat Vallas Male College. The LA Actional Defense Computer of

This for A Artistar Defense Committee at 115 S. Paresign. J. A. 1995. in coordinating the defense for all the above.

These are rely a few of the themen heef. Harby, Ch. and, poor people and descenters who has effect megatives of the court system every day. Less not the full-light of a Pentagon Paper trial.

The fixe of our Proceedings of matter boson on both in the processing of the Matter Borne, the matter was to our processing the second of the processing the matter was the matter than matter to the matter than matter than the control of the processing the first than matter than the control of the the con

#### OBJECTIONS CHI LIMITS

The control of the control of and antimerishment end to the facility of the pressure of the control of the mary the country are not a decreased by the my week and enderso in a precedum. The povernment had in that the mass should not bear sometiments declared this bus red a site this re int men and

CIA CLANS LP.

On Arrel 11 the index indexed the encentracted www.netrinoider, was a fix memorable. But immore specially data with the initial content arresponding with the energy and in the energy of the energy remulated a condition take another conditions or an intention or condition to the test. The CTA referred to a series with the include order enthickness of a conderventic encountry of excluding constructions of the structure of the series of the pudder withcrew has condition enthich than having to distinct the condition of the condition of the condition of the conditions of the condition of the condition of the conditions of the condition of the conditions of the condition of th

#### ONE AT A TIME

The difference partie this motion to allow the first to have log as in the Pertiseon Papers and other on limetrs so that can follow the testimans. The lidee different the motion, same the first of the dimedian motion, same the first of the first of the first of the major a single pare if the early widness treatment on that pare. The defense are not the Pentagon Papers, individual pares and testimons about them could be misleading to the

#### STILL TOP SECRET

STILL TOP SECPE?
Different last successful motions, Judge Brine made a startline request that the reservent at attenties without seeins how they intend to keep some of the Pentagon Puper's Secord. Parties on thour solumes and for entire volumes and for entire volumes and majoristate may be presented to the public. Those fave to do with the assassitution of Noo Dinh Diem, the LS role at the 1st decrease Conference, and the role at the infatures a Conference, and the

terminated that the scale of the main and the first the most distributed to a product of the most distributed to a left for the scale of the first the scale of the most distributed to the first the scale of the most distributed to the first the scale of the scale

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Parto by Pertin Heint Moseum of Modern Arth

or her affection obetween history That was better the Rescapers are said, when the determined model we read around one may a make the model. the miles has still not rated on the

THEY INS I TREST ANYONE UNDER 10 The Time I and all actions a state of the defense because the grand ears of the desires of the desire of the desir

After a statestical state of the population of Los Arreles, the seter recistration lists of this America, the sector receives mine this said the expertual post of extress, the distance presented exidence that south was softened to the experience of the south of percent.

indepreparementable movements precent. The solder demonstration and stated that the determs would state in organizer from the discrepancy. The determs had according to each a movement on sold a state of the solder parties are more previously, since older parties are more previously to decentions a propose into other more more. The interdimental households hearing on this matter, statem that some receive do not constitute a Thomastaria class. The his not constitute a "Connection class." This was first to the fact that there and served on the President's Commission on Youth and Compus Linest.

and Campus Univest.
The first 1981 people, bear nat random for consideration as potential juries, d.d. not include one personantier the area of by, and sensites under 40. Once aroun the definee raised the question and once aroun bleam denied under representation of youth.

#### GRILLING THE JURY

On July 10, as the first mirers were being questioned. Judge Byrne, called a private conference of the defense and prosecution in his chambers. Outside the hearing of thepublic and press, Borne denied all direct questions to the pirors conforming the war, government sources, capital painshment, and a number of other political matters. The ladee decided to exclusively control the questioning of the juriors. The datense was disappointed at this decision, since it would not allow them to ask "follow-up" questions immediately after a prospective jurior responds to the previous duestion. Frial lawers feel that this is the most lagrify and aspect of selecting a fair, impactial pury

#### NEWS CHOKED--REPORTERS

By Jim Bendat

On June 29, the 11S. Surreme Court handed down a 5-4 fre winn which may have grave implications for many newspapile who have been coverage events such as the Pentagon Papers case. The controlled that reporters can now be called believe area garies and competted to disulted the names of their news sources to retrie would mean

The Pentaron Papers Peace Project bes the mentarion ragers must project most to some permanent of the insure that the insure raised in the recal will be widely communicated and in devised. The project will produce and entrators educate out the project on the sure, the trial and the Papers, and help of ers organize around these essentials.

the Project has now desclored

- A direct of the Tentorin Papers.
- A film with thin Ellisbery and Tons Russo discussions the trial, the war, and the Papers. —A nation in transcript in service the utional destroyer w

-A guerrilla the tre and mixed modes

tresse

If you are indepented in receiving bull orders (Misopas) in more), the cost is too centypersopy. First Misoscan recase the Pentaron Paper's Direct, a bruchure on the trial, a logs of costs is suid of the Pentaron Paper, and support the work of

125 West til Sir ret Los Anzeles, ( a.f. 401) (213) 459-4256 the risk of going to juil for contempt of

court.
The case in question involved Earl Caldwell of the New York Times, a reporter who refused to tearts before a Sur-Francisco-grand jury about Bluck Parither activities. The burneme Court upneld the contempt citation arainst Caldeell and tec concomprehation arainst Caldwell and two refore reporters in recorded cases. Justice Whiter White Editored the opinion of the court. He wrote that rap refers should on process "a test, namel providing that other otherm do not enjo."

The chief dissertors were Justices Potter

public, for example, held in sources leared to closure at their at offst.

There are no many national recorder, in Tox Angeles covering the "Pentagon Barries case. Here are some at their rise time to the Suprome Courtifies from Peter's man, fasturday Review. It was borried set to in, and of his an intermediative effect. I suspect that many reporties with test I have decision. So he a construction facility news, as reporter, wouldn't have wanted to record responsibly. But now there is a whole new attribute about what the in a shell new attitude about what the

Parry Farrell, Harper's: "H's very Farry Farrell, Harper's: "It's very bad to S. I most say, though, that I had an organization themes court being shad it is. . And it will be interesting to see whether ones organizations will stak up for their for ordars after example, how the New York

Times will react if and when Caldwell pres

under JI I neer, Washington Post. The Surrene Court decision is an energy as the attente maneus erability all the attente maneus erability ability of reporters to function free of the so arranged. News organization, may or to errored. News organization, may on-m, in this kippin individual reporter who, has been subpremand or individe, but in the greaths the reporter along who will be on the one. I'll no local if necessary all more reveal a confidential source? Then Wilson, New York Daily News of it's

They without, New York Daily New Cities est entells depressing, a very dangerous and very threatening decision. Whenever ty, make of lefter of their a reporter to not the tr. 1, you r. barming the publics. Health are now seeing to be afraid to give reporting the built for four that their identits would be her an tradidence. As for me, I cannot nea-ris large aroments to new vortees, a nea-technique aroments and the rear to go to all officer i minor surce that to do all paid man sample not be able to be as effective a

this, has clear, and directors to his town for the Pentaron Paper trial it. If the rifes has into about that some document about the Pentaron Paper in that be introduced in each hose set not in the put is in the surface and bhould the pression that it is maken and the out to the ball it to all in the surface and has all the out to the ball in the about the pentaron in a reason ground to put now. By so, two on more because on part of the safe confroen shelf.

#### AFFIDAVIT (Cont.)

AFFIDAVIT (Cont.)
realmof forcien polics is forced at drawn into the public domain. . . . To a great extent, government officials overthy participate in "declassification," They do so in numerous ways — through broads specific, testimons to Concress, publication of official discuments. . . The specials, testimon to concress, publication of official documents. The major conduct for this process, however, flows from the government through the Concress and the press to the public The procedure is informal, without precise shape or santton, but constant.

In short, the government is and lone has been acceled.

In short, the enverament is and lone has been a withink and active partner with the problem to the public the sabstance and frequently the precise contents of documents. It and other material that has been classified and, in special publication, frequently remains officially "secret" for years.

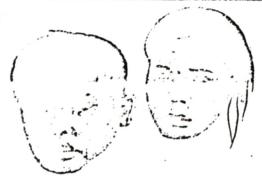
The men in high office is were not

partie. Somain At moments of crests, com when atmost secrets is crucial to the success of a national policy or anitiative, this process is invoked.

Primary the diestron arises, who in increasing the dieses about a concell and when to reveal? This is a diestron concell and when to reveal? This is a diestron that ments much careful scrubby. The entire system of classification in overnment is, involutional as increasing a control of the bottom concerned, which are controlled for an along variety of interpretations. However, the arises of interpretations. However, the white of interpretations, there exists when it is sufficiently a secret stamp of it. Much form in the hospital classified that in open that on the form into the public ken. If the left in other record items was berntly anythed. the worsts the seestion arises, who in has been fulfore into the policy been. If the left read the regardation, was bright applied, actionals handeed out public servants are fulbe fixed to be impossed and windation. If this were to burgers, the quite's access to executed information would be stiffed, and they who craft to that information would be subject to the arbitrary decisions of \$ tea e vernment administratives

# The Peningon Paper

Pentagon Parers Project 125 Wust 4th Street Los Angales, California 90013



Grow up strong . grow quice , my chilaren . gaice now, harry. you and I have fatures that reed saiding. A house where muraer, have, and lies are strangers. Where we can used out lives war-twisted and warpen.

Grow up strong, my saughter, saick now, harry. Hour rife will hammer out through history's tempest A country worthy of your wife and suffering. shome result on the land that staims our blood.

Listen my son, as the Iuliaby whispers our store. Twenty parthed years have been saited by our tears, thenty cracked hips have trans the based of Victnam,

Grow up strong, orow quick, my children.

. built sound like stone, honed ween bu hunser. grew quick, my son and demonter, quice now, hurry. your scrength is the only roof that can shelter my duing

Written by a Vietnamese Mother

### GOING THROUGH THE MOTIONS

In the past two weeks a panel of one builded potential priors was brought before the court. The pro ess of finding 12 prople alde to render a fair and inpartial decision is referred to as VOIE DIRE a French term which means to speak with and to we. The purpose of a voir dire examination is to discover the individual views of each piror. The voir dire should usual the hidden opinions and mejudies that would effect how fairly the pirors could judge the case

#### **Historical Precedent**

The lawyers for the detense were decided the 11-ht to smak to or ask no. questions of the petintial pirors Inconducted by Judge Byrne, a practice used only once before in the history of American political treats

#### Period of Questioning

The questioning of more to m took It is normal that in a trid of th profeteral properties of a went of acid - frenche take two months of our stronge to food a panel of tacks promise and to see as a pers Ties pers, becauser, was whated in then marks. Each process than party has solved outs from of the 208 optimizations with matters by the defense to the parter

Of the initial pend of 100, several were excused from serving on the pury for research of personal hard-hip Another et of ment was extract for 'cause This was the prior fore by which the prige dismissed propie after a king a few have questions about their opinions on the trial and the war If he deter mined that this showed a high they were excused. The third form was by peremptory challenge. This occurred when either the prime ution or defense can automatically dismiss a jurye without a ruling by the judge. The defense had 13 perceptors challenges, the government to The defense by Lew Pris presse more dullerges than the prosequent Hith other required additional challenges. Both requests were denied h. Birne

#### Jury Of Peers

On the ear the total, a motion for direct and warehold questioning of the preser was denut I'm defendants are faced with a pirk this know virtually redling done and a per thes know does not represent a cross section of the pervitation. They are forced to accept a pervital dies not conform to any of the sample destined in American legal heaters as a for to org which to receive a

### the pentagon papers What's on Trial?

THE USHED STATES CONSTITUTION THE GALERNMENT, NOT THE PEOPLE, OANS HISTORY."

- TONY RUSSO

Many people who have heard of the Pentagon Papers think they contain mil-itary secrets. Actually, the Pentagon Pap-ers are a complete history of the Victnam War up until 1968.

The Papers are the product of a study commis oned in 1967 by Secretary of Defense Robert McNamara. Its purpose was to slow how and why the U.S. became in often in Vietnam. There is a government of the based totally on government documents. The Pipers were Unit "top secret" secause they showed how the the nature of the Vietnam war.

#### Elisberg Reads the Papers

In 15.9, Daniel Ellsherg worked at Rand Co peration, which dies a list of work for the Defense Department, As part of his job, Eli-berg was one of the three people who had access to the corrolete Papers. After reading the Pentason Paners, Elishers learned the truth about the

Vietram War. He thought that other people should know the truth too. So did people should know the truth too. So die Tony Russo, a former co-worker at Rand

In June, 14"1, articles from the Pent-In sune, 19 1, articles from the rentagion Papers appealed in the newspipers, causing a great uproar. The government tried to stop the newspipers from artisting what were supposed to be secret documents. The Lew York Times won the Funtage Paper for the printing of the Papers, but Dan Elisberg and Tony Russo

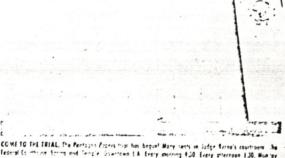
#### Thieves and Spies?

Dan Ellsberg and Tony Russo are now Dan Elistert and Tony Kusso are now on frial on charges of stealing government documents, spying against the govern-ment, and comparing to commit both these acts, By going the American people their first official version of the history of the Vietnam War. El'sbere and Russo of the Victiam War. Elishere and Russo are also being accused of conspirary to take away the U.S. Government's func-tion of controlling the release of class-filed information.

The government wants the trial to deal

only with the question of whether a not Edsberg and Russo veroxed documents

For the defense, the trial involve the clear question of whether as multic should see the Pentagon Papers of the peonie have a right to know what s mide the Pentagon Papers?



COMETO THE TRIAL. The Pertagon Papers than how begind Many nests in Judge Turne's countrions. The Fedral Co-miscon Strong and Tensile Disenteum EA. Every morroug 430. Every intersoon 130, Manage through Fr key SUPPORT DAN AND TONY!

### Military Ties Challenged

The P magon Papers tred began on July 10() before US. District Judge Met. Brone. The first item on the accords we the silection of the prix A panel of 10 potential jurious entered the parenty of contract priors entered the constrones. A large percentage of this tury parel had come directly from molecus, andies. The occupations and had grounds of some of those potential priors is to delivery and the se-suide for Daughis Aircraft.

- works for Lockbood Arreadt - worked on underwater weaponry for US Nas

adl enter West Point this fall -- estul a fortion + HI acont, the a

Of the first 31 pary principles to be operation 4. 22 wither personally or through family two base had US

#### The Defense Objects

Leonard Boudin, Ellsberg's clief coansel, protested the make un of this not poul. "We would like to have a cultan tool, not a military court run-

On July 14 Bondin asked the court to excise all mines with military con se-tions, but Judge Byrne denied the motion. Then Leonard Weinglies, notion. Then Leanard Weingless, Research theorems and commet asked Born to excuse must those who presently have a secret character with the government. Weinglass compared a piror wit a ting as a piror in a bank rither case

were the second

## DOTTING SOURS AND VAR BRAAS MI

If somire unernational right now starte not alone. So are five million other American . The etters and the had So are the million main war on the national of in my have consent the most autoprout mean plantent in twents sens Accepte workers Luties workers engineers and laborers are losing their tobs as the economy falters. Job openings are low, and in the last sear we have experienced dramatic rises in the number of soring people and seterate who cannot find jobs. The uprover of find over union ploved more than disable tim 1971, when more than haif a million workers were out of work for six minister or more.

Many weekers now hear for the face 1960's, when the Vietnam build in out thirty bettern extra dollars a sole into the economy to finance the cost of the war This thirty hillion dellars elected evers serier of the eronomy is every area of business about huge profits from supposing the nationals of air These seemed to be prosperous times,

5

3

Millions of Unemployed People in U.S.

ar I by 150 4 the triompil ament rate was armine i it

#### Unemployment Soars

the 1971 however, the raise and greenplanent rate hat shareheled to bet e If has he seried for the Last sear at I a half. (These Department of Labor features only count these people who are mine who weekers AFLA TO finish in sile the who want to work fest lane become decimaled ther taue su individual the books the war also was the house for the bust. He the end of the Johnson Administration, two major may of the employ were in tradile First were those industries which were derail, to start to the Victoria built of the 'es. But more disturbing's, the field informs which financed the war begin to lause traubles in that farm secfor of the economic which was indirectly related to the war or dependent on other forms of government expenditures.

Here's how it happened. Maste war extenditures concreted an economic desired to read that far the classes of college, it which In others taken taken across the hourd. knowing that all of this money and purhas actioner to much the. The economic to desend on these government war sur

It carried out that the generalment's after a cross hat to the war was haved word a wife of false products as The enernment thought that the war would he short, popular, winnable, and cheap. There exists currented was made to cover new motive to finance at To goe for the wer, the experiment began to slide beaution into debt. The national budget tell commetetels out of balance, and sud-denly ted cut spending had to be cut hark on all Imela

#### Feeling the Crunch

The first workers to feel these cuts were those in the defense-related in-dustries, where over one million jobs were lost between 1970 and 1971. The aircraft industry alone lost l'airient je during 1971 Many of these were skilled engineers and technicians, whose training and experience new go to waste

Yet this a is only a symptom of deeply the economy was being hurt Over half a million blue collar pios were lost in 1970. President Nixon's plan was to combat inflation by slowing d wn the economic on all fronts. Rather than acceptine a lower level of profits, the business community responded by laving off thousands of workers and raising prices even higher. This led to a unique period of inflationary recession. As the corporations scrambled to maintain ther profits in the face of covern cutha is they increased unem

pleament while taking prices. As the are into lest their rotes and incomes the . he s. . It lend, still this was felt in all sertume of the contrained excitation ten race was set up also h resealed the derendence of business on a war economy, and the inflerent dange a of binds for the war, the problems to the erements forced de bets outs in covers ment spending for social needs. The war on persons become only a memory



#### Paying For the War

Although the American people did not directly finance, the war through increased recornal taxes, the first people to pay for the profits of the wa were those who paid with their jobs. The burden nom also falls on low and mid- le inone working people and their facilies. Caught by the current wage con troltheir low wages are not equal to it lated

Dr ves The Vietnam war has demons rated that delense spending to achieve fell empleament leads to economic crisis This ties combines high unemployment and high press. It will take a rade al s' ift in government priorities away from war spending and protection of busin as inments is nighting with section them.

# Pentagen Papers Expose U.S. Role at Geneva

Starting in this issue, the Pentagon Paper will print summeries of important areas covered in the Pentagon

Most arguments above Victorian couch back to the Genera Age ements of 1954.

These Agreements and vap the power treaty that ended ten voice of turbing.

All treaty that ended ten sairs of tighting between France and the Victorianiese All the groups now involved in the war in Vietnam use the Ger a cagreements as the legal basis for their actions American administrations here in tinually blamed North Victory for th thinity happen source viction for the failure of the General we only little But the Pentagon Papers show that it was really United States policies which had a "direct role in the ultimate benefacing of the General Settlement" (NYT p. 1). In 1953, the French care to General in

total defeat to reach a attlement with the Vietnamese After to a sear of little the vientimese After on view or defined struggle, the people of France is of had enough. They demanded that their government end the wir. But, even as the talks were going on the US Government was secretly planning to pick up where the Freich left off

The Penragon Papers reseal that after World War II. American poles, con-sistently supported colonial powers and put down attempts to establish poquilar ernments, particularly in A-19 and

Following the World & at II deter of the daystoner, the period of Ind of time leaked to America for sequent. The Pentagon Papers note that in 1915-46 Vactoriamine leader Ho Chi Minh a qualed repeatedly for US and UN tolp to and the French from recomputing Vietnam

the case of Inco-China is on feetly clear. France his milled it for one hindred years the purple of Indo-China are entitled to sumetring

-Pres. Roosevill 1944

(CPO I, p. A-14) Washington never annivered these let

ters and refused to recognize the popular interation movement in Vertiam In-stead the US provided France with the ammunition to tight the Vietnamese

1171

"U.S. assistance, which began modestly with \$10 million in 1950, reached \$1.063 million in 1954, at which time it accounted for 78% of the French war burden.

(G.E. Vol. 1, p.77) When it became obvious in 1954 that be French were losing in Vietnam. Washington trued to present more talks Washington tried to present peace talks. These efforts proved unsuccessful and the Geneva talks began. Present at the talks were France. England. U.S., the French State of Vietnam. Loss Cam-berta, Democrati. Republic of Vietnam.

Russia, and China.

From the start of the talks, the US opposed Vietnamese independence.

"Both publicly and privately, Ad-inistration leaders indicated at the outset of the conference that the U.S. would divorce itself from any tlement that resulted in less than complets French Vietnamese victory

(G E. Vol. I, p. 117) The General accords were drawn up in July 1914. The terms were clear and

aughtforward -Withdrawal of all French military

-POW cretifical to days after the

agreement grass into effect.

— A temperary border set up between North and Seath Vactours which is not supposed to be a political or territorial

-An International Control Com mission to opportion the term-

-From atartages on all of Victoria Lees and Cambratos to be held in July.

-Reunitration of the temperary decision of North and South Victions No logical military presents in any

Pier of Indo-China

These terms were desentable to all participants except the U.S. The U.S. never formally assembly as a second ver formally agreed to the Geneva A.

ds, but Washington did make its own declaration in which the U.S. or mised: use of force ... (and) ... commue to seek to achieve unity through free

Ciections ..."
The US declaration also stated: "... its traditional position that peoples are entitled to determine their own luture and that it will not join in

#### (The American Stateme

But this is exactly what the tienes a Dit this is exactly what the Geneva Agreements provided for establishment of conditions under which the Viet-names could form their own govern-ment. The U.S. Kees that the Viet-names would choose a pro-Communist government President Emembraer sans

"I have never talked or corresponded with a person knowledgeable in Indochinese affairs who did not agree that had elections been held as of the time of the lighting, possibly 60 per-cent of the population would have voted for the Communist Ho Chi Minh

With leader ..."
Withington fested neighboring peoples would follow out. This simply street is the "domino theory." I.S. lear. of bonne Vietnam gree to an observed Sirely it was cheaper to suppress Viet room than all of Aur

No solution to the Indochine problem short of victory is accup-

(GPO 9; p. 271)

Even while the pear term Even while the price form were being drafted, the Evenhouser ad-nomistration sweeth, and trains of Americans (the Science Military Missing) under Cil. Edward G. Lan-sdile to North and South Victoria.

"The Saigon Military Mission (SMM) was born in a Washington policy meeting early in 1774 .... The SMM was to enter Vistnam, and assist .... in unconventional waitage

(G.E. Vol. 1, p 574)

discupting Hanci by bouring the nicals in the cis tanks of patric base, and weeking printing presses, Lan dale's agents found time to conduct Eiglish classes "for the mintresses of important

Until 1954 the U.S. had been a ile to Until 1934 the U.S. had been a lie to hide its interests behind France, low a new stand-in was needed. The U.S. threw its support behind Ngo Dinte Dann, who became Premier of the tem-porary S with Vietnamese Gover, ment-When the time drew mear for free electunes. Washington was well away that Down steel no change of winning

tweether settlert "Without U.S. support Diem & Imost certainly could not have consol fated his hold on the South during 135 i-56."
(G E. Vol II; p. 22)

In direct violation of the Austrian Declination on the Agreement, if (118) supported from when he related scorning with the North about electrons.

... Diem matched his refusal to consult with the Vietminh about elecfions with an adamant refusal till ever hold them. Nuither Britain nor the Soviet Union pressed the matter; the United States backed position"

(G E. Vol. 1; g. 241) US poles towards the electer a was

give no impression of slock-elections while avoiding the possibility of losing them

(N.Y.T. p. 22) Dorn was to maist on condition . that South Viction would be sure to releat In 19 at the US Justier violated the General a corte his serving militals per-sons into Vienam. To avoid de extron they were to be dressed in and a cast tet.

'In regard in the clothing of the besigned tennormal vicilism iwish to indicate again our very trong desire that owing to the political and paychological factors irvived.

the way of the same of the same of

from on pay 4

A.

# PLES OR MUSTICE FALLS - A DEAF EARS

On April 12, 1972, Remider Bear Or try, a let year wild restrict or test worker, howked are actions to the Area on When the plane troubel all the presence his orbit citely their then was allowed his orbit demand, his broad of time to tell the world about the trustrations of

being pose and Cho mo.

In the demand press conference,
Chaser Ortiz stoke with deep emiston about the opposition conditions to buch about the oppressive conditions in which poor people in this country are forwel to live. He spoke for 15 minutes to king about his technic is an intemposed Chicana faced with job discriminations. slum housing near education and other social invistion. He felt that he had to take this drawn to be terre orld a sald not lesten to his productions. and the of his twoode, under any other circum-'an-

At the end of his idea, Ortor applied to the pilot "Forgoe me captain", forgoe me. I never had any intention of hirror amount. He then timed over his can which was unloaded, and surrendered.

#### Under Stress

The trial for Cluser Ortiz began on July 15. The defense built its case on Ortiz's mental state at the time of his ac-Orto had "diminished one in more the stress of trying to care for his wife

the stress of trying to care for his wife and eight children and the mustices to which Mexica. An artistic stress to subjected. Ortiz testified for homeelf that he himsked the pilon fit size America and the whole world." He mentioned his inability to find steady employment, crowded his majority to find steady employment, crowded his majority is subjected, educational difficulties and consequences, his book hostly. cern mer his had health

#### Life Imprisonment

On July 24, the jury deliberated for 6

1.2 hours and found Classes Orra-gades Transdictals attenuable diddle-Care give him the mission scatters life impresonment immunities sentence for air private is 20 sears). The make also ordered that Orte universe tot days of

indiced that their unitergo beloats of proceedings tests, the results of which round lead to a reduced settlence. The discrete his start of that it will be discrete such in the fact that the defense is will not question the risk Attories Mac Hamon fees Dat mans the increase had been minute mysle up less refund. There were no Mexican Americans on the rars

The extreme sentence came as a creat

The extreme sentence came as a great stan in the face to the Chicaire com-missive, more. I wrom closely, more strongly with terrors wide Diving the course of the trul hardrest had come to demonstrate in massings of To natio. Burdo Chicar Ore so a hero Unitive the majority of his kers whose demands the maintry of his chees whose demands incovered serviced and great order out of a real trustration and genuine feeling for his people. How, then, there one ex-plain the "nistice" that sentenced Octoto the musicum runsament - the imminimum enterios; birenument while others pine to sivel more minimum fauteument — tile in-

#### A Chicano Locks at the Chavez Ortiz Trial

............

By Rossinds Basso and Gioria Chaves

Is Picardo Chiver Ortiz mentally connected or not! That is the question. Upon this decision desends whether Ruardo gues free or gues to prison for 20 years, mishe the Smithel Notice 20 years make 'de Smithe' Not so. Not to Chicanos We can recove it he is arguitted or be further distillusioned and angered if he is consusted

The important page is lost in the tangles of psychia ric legalities - which have in thing to do with what we Chromin we train to an and do Some of to pay was from keeping within our weight the function in and dispurythat this unnest the est exestent factors tops a tie. sees decrets amounter to make our without hard. He as to being pertians the was shit with a fear gas proceeding drong a pearwrally German Ortogans on call I willow del Barrie tred to step the flow of draws. All those some often-and — has accome heard? Did amone unicostand. — Does and the care.

Even while Ricardo to proclamed a hera others consider him so demented the the regions a california we grow un-

the the retirency of cultivities we store in-uncertaintable to make traperoration. There is no change, Lette Table Co-continues to early to the Chango work-ers in Compton Ramona Foods con-tinues to sell curreties and draw millions. in productioner the swell and blood of eminute to shoot and norm, as in Walls with Gloria Griftin. In East Los Angeles, politicians, campaign, and promise to get out of the Vietnam War. profitse to get out of the viction terminal and elean up repression here at home. Meantime, bills, aimed, at forther several of our people appear, such as several is our people appear, such as the Rosina bill and the Dixon Arnett

Bill
Yest We've been whispering — We've
been treaming — We've ruded and
we've gravet Some less worths have we've stated and these more unrighteens have a id out We've been taked. We've been killed. We've been mained or simph he ight out And some have laded

Walte men taken to the air America.

over even taken to the air America, do vis, hear Ricardo Chaver Ortiz."

Or to visu say, "Poor Chicano, they are all locos," and go on your merry way. with a pitiful niki towards us Or turn all stern and miles us as communals in

"Whatever wer do, America the Whatever very do, America the Beautiful, the doal natio where who sees no exil hears no exil, and seeaks with torked temple, we've been been much longer than your worthless form and we are not stated to be same



"I do know that I am about to die of hunger in this country, and I have been treated like a snake. They can send rockets to the moon, but hire on earth they treat us like dirt."

. Ricardo Chave Ortiz

## וובוןיוב

Neuven Thai Binh a Vietnam student who was brought to this systemy on a US government scholarshii, was shot to death July 2 absard Pan American Flizh: \$41 Tl \* sheeting took place moments after the airplane had landed at Saizon's Torsonher airport. after binh had unsurers triffs attempted to hijark the plane to li mai Aithough the circumstances surrounding the shooting are still unclear, it arguers that

Binh armed with a knife and what he claimed was an explosive device factually two lemons wrapped in aluminum full, ordered the mint to fly to Hanni After Buth was told the plane had land ed for returing he was executed on the orders of the pilot by a passenger iden-tified as W. Mills, an expolerman The pile: Gene Vuchit stated at a news com ference that he threw Binh's dead heid: out of the plane her suse. I fust couldn't

JOYFULLY WORKING. These Vertnanese women are repairing the differ structures which are vital to the liver, of over 15 mills in people in the Tookin Plain of 15, inh Vietnam. The dives have been severely weakened by U.S. bumbing raids in the areas surmunding the dikes

stand to have that person in any part of my airmane." Birth is dead because of the ca was decision of the print that he dul not deserve to leve

Birth who resently graduated from the University of Washington, had been active with the Union of Vietname Students a group deeply committed to the Vernamme struggle for indepen-dence When Binh arrived in the US in 15rd, he was a supporter of the Thieu regime and US involvement in his nam in 1979, his views underwent a dram, to change, brought about he the imme a destruction and corruption be have there. Upon his return to the US. he becam speaking out against the war. When he was informed last April that his government wheller-his had been cancelled, he knew that returning to Saign's world mean risking death Today the police in Saizon have arrested Binh's the Brise in Daizon Base arrested Binh's father, and there are unconfirmed reports that his mother and sister are also in restorie

The reserve of Hint's passion is best even should be time onen better to "time and gave in inc temple," renned by Binh on the day before he was mur-

Deur Frant.

I on Nethamese Me name to That Birth which means "Pence" Me parents give it to me to express the decreat aspertion of the Unitarines quante A Something who restain of the Agency for "Interestional Deselopment brought me to the I need States four some my As a Lecterimen student of Vietrames Stene I have studied the many wated as morner and cultural dame to repeated by the 1'S west of thereig the 14th summer I had a

han a to trenet and over South Vesturem m in fer to strong lan me integrant to torre describs to a set or must decreis the real duction of the une and to witness the e aportate of any crimes being com-

people of Vietnam

For the Victnamese people, so long as the U.S augreson e force remains on our soil, we resolutely fight against it. We mither secrifice everything than hise our

Going home to s'and in the line of the Vietnamer prople in the structe national salistion to take part in the resistance against the L'S. aggres ion, to confirm the matrices of our on or, to desit are to the freedom fighters of Viet. nam, hing and dead to strengt on the confidence in the eluctable riches of our people 1 direct Pan Am 841 ii Yanot. I promise moself I shall an hart any

While the US administration's have been using the most amphisticated, murwape to kill people, to bomb, it mine indiscommendate all over Vietnes in my tighting for ware, law and notice I fully aem with my unshakeable is in will. my indomitable spirit No went in no there's can mult me shrint To summe for the Victoriane purple

I know my times for perior on and he heard conned defeat the rearre wound of B 32's, of the I S bumbines, anter 1 take this demante action This truggle is full of hard-top Honorer, to enter bouch to me human heart, which can exp' wie to wall for ine, buth and hope, to nake up the conscience of the Vactorium of the Vactorium of the Property of the Property of the Vactorium of ul the war end.

The praire and pastire leaving ; combe in the world Rome was some more power fulls and multiple some notions to stop the I'S importulate in their war of weren stun in Australia Demand that the I'S generament resent the ju warmen tal national rights of the Virtumers

Touther with the entire Vistagment people we demaits no large and an series thank you all for some a defents with and support to the Ve toumers

Viet Then Bunk

In all and door green water, and Mexical dess. Virginia, Protect Most, a Virginia V. Bream Ir granted in materialist a sent-ing turner CIA to all Act of Machiner ing former \$14. The like is A for the finery from writing arealists are assess and whose above the Alexa The CIA chinnel that Maching had be ken a so rees contract size of while corollared by them from 1955 to 1965. Since Marchetta left the CIA ne had

he one increasingly criteriskin in historitude toward the April 5 and the government. He even and not recovered to Senator Smart Seminarior than the best beatings on Immunity the UA Enterer

bearings on Improve the CIA Labor Marchetti he'red Richard Barnett compose a blistering attack on the CIA



which appeared in the New York Return of Books. He published a six nosel. The Roye Deacen drawing attention to CIA

#### Government Strikes Back

The government final a found its chance to strike hack when a recresertative of Esquire leaved an Article by Marchetti to the CIA. In Article the CIA obtained a temporary injunction presenting Esquire from publishing the article and presenting Marchetti from soving anything more about the CIA. They asked that the injunction be made permanent

The government cl. imed that in five The government claimed that in five places in the Equino arto ic. Marchetti revealed classified information. The complaint around M. ethetti was in-ked in the Internal Seu in Distriction of the Justice Departs, it is His attenness meeded securit, clicializes to see it and the hearing in a conducted in accept. secret.

Secret.

The defense hased their main argument on the 1951 Supreme Court ruling concerning the New York Times. printing of the Pentas on Papers. In that case, the Court mier that the govern case, the Court river that the govern-ment could not election an inversion presenting the New York Times from publishing portions of the napiers. The governments we claimed that Marchetti broke his contract, causing

"irreparable damage to the national security Marchettis ttorness, lawsers from the American Cold Liberties Union, had sever! witnesses to

consistence of the first for the eleganne for two matrixsum. One of these cases as a two-configuration falls are expected in the tors out few, for, his mass should be get his clearance. The nodge that ruled that these actions witnesses called not testify, even with the clearance, because only the substance of the contract was relevant, not the issue of furreparticle

The Judge Rules
On May I'm during Bream, repeating
his earlier operation on with his cost some
relevant to the case, stated that the cover.

reme and of the case, stated that the cover-district in the source there is one of the solution of the solution of the solution of the solutions of the solutions. He then easied that Man herts broke his contract with the CFA and based from that making he

control the municion.

US to Marchetti is now under review by the US Court of Appeals. however, the CIA has stopped Marchetti for the time being and without much notice from amone

#### "If Russo and Elisberg are found innocent, you haven't seen anything vet.

The Pentagon Paper spoke with far-mer CIA officer Victor Marchett on July 19th, 1972. The following is a con-densation of that telephone intersiew. PENTAGON PAPER: What is your background in the CIA? MARCHETTI. I worked in the CIA from 1971, 1989, except for the wear that I spent with the Clandestine Services. Most of my work occurred in the In-sellicance Directorate doing research religious Directorate doing research telligence Directorate doing research and analysis I was a special assistant to the CIA Chief of Plans, Programs, and

the flower the character of "irreportible". Budgeting I was finally executive the agency of the government I only down to the formation of the same to result the Indian Director, Admiral Editors and Resolve the only formation of the fill of the Indian I not the Indian

#### A Spooky Feeling

PENTAGON PAPER What's your

of a short the coet. Associate the treatment of the corner for Court is a speoks feeling the serie file totally the other gas which brought to trial. You about really thinks about it, and then all of a sudden, it's you. It's

Fig. CIA did a dirty trick clarence an minimisted on me. I was really name. I didn't extend the CIA to do what they did I's been a creat surprise thench !

our send show that her I will have respect for the CIA. There a precise smoot outin. I have to admit it's the last thing I expected from

#### Elephants and Aardvarks

PLATAGON PAPER What's your

PLATATORY PATER What is sour feeling about the injunction?

MARCHETTI I'm absolutely outraced by it, Judge Brain should never have gone to law school. This agreement stuff is non-sense. The CIA undiversity expanded on this undereally expanded on this agreement For examine, they included works of fiction in the insunction. though it never came up in Court So now, I can't even write ninels

The whole thing reminds me of what a West African friend of mine once said. When the eleptants fight the aard-sarks get stomped to death. The CIA has all kinds of genracks they can use actions are I can be wired out and the agency knows it. My livershould depends on my writing and sreaking They also make me an example by stop

For God's sake. I'm not out to destroy

PARTITUDE OF THE PROPERTY OF THE PARTITUDE OF THE PARTITU

have done a big big serve Finally someone stood up and said b greebit on all the government seeres a d long. Their actions are come to have a great effect on reciple new in the concerned. PENELSON PUPER HAS

MARCHETTI I have free els in the CIA, even highere who have resigned or are about to. They say they're going mite thenes like the drawers busyes into times like the drawers receives in Section of many martch to a section in Florida They will many see whe they're leaving but it's clear The range. of the CIA is evaporating

#### Changes Needed

PENTAGON PAPER What effect has the War in Vietnam had on this

MARCHETTI I think the War is one example of what's wrong with the System The time has come to rethink things. Changes are going to have to

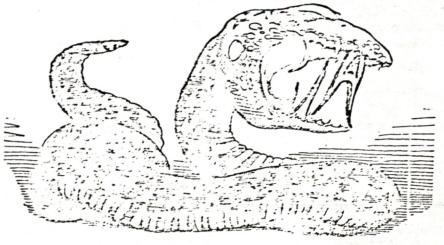
PENTAGON PAPER Him have perties recorded to what you've done?

MARCHETTI What's kept be going a whole lot has been the rection of pengle

people
I haven't gotten one crant, ever or
call All the calls live received the been
favorable. Feorle like the main an have
been favorable. It's great.

The received the favorable of the favor

Let notice say this. There as a let of muss waiting to see what ha pins to Russia and Elfslerz. Even if they're convicted, what's been happening will con-tinue. But if they're found innecent, you haven't seen anything vet



GENEVA

The Pentagon Page a Present has been regarded to major that the fac-ciance in the trul and the Pentagon Paper will be widely communicate and inderstood. The Project has produced and distributed often and materials on the war the trial or I the Papers, and selfe others organie around the-

The Propert new 1 as

-A digest of the sentagon Papers -A film with Dan 311-berg and Tons lusan, diwinsing the trial, the war, and he Parers

-A guerrilla theater and mixed media CLA1 LIN

-A radio "maga ine" service to mal distribution

-A parnulated were a on the treat the or, the Papers, and other document.

The Pentagon Paper

"Three Pentagon P. per "Three stoke show a with series in the Victiminese culti-re, the Pentagon Papers, and the Lors, N.L.F. offensive The Pentagon Papers Proper mode our bein A \$10 document will enable upon the Pentagon Papers." to continue to make a said tide the refor-nation, that services I, this trial In-response to your outer of and suppose as will would you all our printed material and a copy of each too e of the Pentius

The Pentagon Papers Project 125 West 4th St Los Angoles, Calif. 10013 (213) 489-4750

civilian clothing be used whenever possible by TEPM personnel upon their arrival in and departure from Vietnam, as well as during their period of assignment in the country.

cont. from p. 2

State Department Letter to Secretary of Defense (GPO 10, 0, 1058)

In 1951, then, US rediry was set Verifie protenting to uphold the terms of the transa Azerment, the US would work to hind the women to a house full series in Vaction by whatever means

"Where restrictions on U.S. mere restrictions on war operations exist as a result of the 1954 Geneva. Agreement, take such measures as may be necessary to present them from interdering with the mplementation of this pre-ism

Vietnam Tase Force Dreft "Program of Action April 28, 1961 (G.P.O. 11, p. 47)

The rest article in this series will talk more areast the different elections that dul and het not take place in South

Quotes from the Papers which were used in the article come from the toil swing sources

- Icw York Times edition: available in Bantam paperback
GE — Senator Gravel edition: 4 GE - Senator Gravel edition: 4 volumes, available through Beacon

volumes, are many printing Office edition; 12 volumes available for \$50 from the government and are

GPO — Government Printing Office solution; I volumes a swellable for \$50 from the government. Two other extions exist and are available through the Pentagon Papers Princit These are the Pentagon Papers Docst an extremely condensed 15-gans summery and the Creekbury Cita is 150-page summery. of austations with very little commen-

The Pentagon Paper is pa dished raise a month. It cases the Pentagon Poses trial material from the inner-seriet deciments, and current infor-ination on the War in Indochina. If you are interested in reserving bulk or fees of a The Pentagon Paper (10 concessor) mores, the cost is one cent per copy plus

Staff for the issue: Paul Becker, Jims

- ·

# The Peningon Paper War Bulletin Included

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### Clark Describes Bombing

Ramax Carl a wrond convention and the treet of North Volume II. It is to comprehence to report to the American people. The obline may be written that the treet in written of that press convention.

The Vietr muse people are only more The Vielt critise people are entis from determined than ever I finek tows are kind of like me in that regred, mixtu-even like you. I get mad when records kick the cross of I'm down to are not It you start benching and killing them, you don't leave them a lot of home I think

don't leave them a lot of choose. I rhink, It's a system contrary. This we give a saxing, there. We shall discountly choosed of the houses arrived sometime than the many set which done in the thoresteen many contrary to the sometime about our character, won't in. But I think they'll go down singing if we don't ston. stop

#### The Bombing

Believe me, it's hard when they look out in the time and way "Why do you omb"." And God knows I can't tell you why we bond. We was write with-drawing we say we are winding up the warmer we say we are winding up the war, we are very proud of that and we are bombing the hell out of that poor land. We are betting hossitals and schools I can't tell you whether it is deliberary but to the row by trop out by it doesn't make much difference, does it? Mathing a more than a land of the say and the it? as dead You can stop the metaless or accidents the same was as you can ston the bonding — next stop it. In mis judgment, there can see no moral justification for it. You better believe we have not dikes,

You better believe we make not diken, and sluites and candle I law a bunch of them over four proximes. But I can tell you I went down to the footh in sluite, it's a critical sluite, it is a mutin corresponding I spent four years in the Department of Justice in Natural Resigner law and I know something at our water control. This is a sea wall, a fixed wall, a water control. water retention wall for dry seasons. This is so because they've got to get three crops a year out of that land and it's been but many times, You don't have to look at it sery long no, to know that to from an it very roug no, to kn on that the a major control focusity for explain hectares. (Inc. square railes) of land where footbeet people live. Now the is in the province of Thai Birth. The highest point of elevation in Their flower.

Thai Binh to loss than the motors above sea level. We talk about Florida being a Dat place. The highest point a c Florida is, I think I result to been or significant iii. I think I to still to beet or simplifying like that The broke top to up that from is not seven feet above some east. Years or loss a hot of fixes with drowing there if the water comes in or care type, see You have it lot of food because a lot of food is. produced there It's one of the reliest agricultural meas in the North, and thes depend upon the corn rach course

Repeat upon the sector replacement.

Hospitals Destroyed.

Chart half of almost the hospitals he saw headed in Harm, were a rechard to destroy the distriction. He train spoke of control high hospitals in the countries of the distriction that we had he would be seen to the new Provincial Hospital in Theology to the new Provincial Hospital in Theology to Now the hospital in Theology to Now.

this heaptful roused to the leasting in 1969. It moved from the old leasting heaping the old location was destroyed m Peak It hel been a tubered, so cen-ter, so it debut have sometimated medical equipment But they bealt it and moved it in 1'4,'t, and some server to brok moved it in 1997, and converged to leak it good more into before consequences wither disologiment. The prior was smaded, prit inached. They can by ft. 12 s. Ed the toknow what the Air Form was always it. The got some district and hours, and places, and I, think the Ariers in people are entitled to know what their oldows and one. Ed the new what their oldows are didner. what their places are don't for me say

# Pentagon Papers Trial Delayed by Govt. Wiretap

that had marked an energy most more But, there does here, or, July Judge Berne them the concentre tetal contest or On teat discribe ends, admitted that the government had behaved a conversation corried on hy a member of the delense train Local questions about this westap base delived the trial for an indefinite period

The issue of weet aping was first stand in the trial or illuminary 24. On that div. the defense asked that the government reveal all wirelays having to do with this test of the Historic ordered the government to deal so the logs of ill wirelaws of the deter lamb Daniel Ellsberg and Tony Russe, their lawyers and they lawyers' with They have been also as they have reaids. These legs treated of what is said) were to be dis beed "in camera" (in secret to the endicidence: The order on series to the judicial order. The other sked for surentia internation from the FBL the CIA, the Secret Service, the Demattment of Democratic Service, the Demattment, the Bureau of Customs, the Bureau of Natronies, and the Internal Herrice Service

From June to early July, the defense pressed the government to obey the May 

of the larvers and their alies of the larvers and their alies The delines argued that it was impor-tant to know if the leavers' phone calls were bucked. If the lawsers' phones were bused at might ecreases interfere with their right a plan their rise

a Reserved on Estade and a are to ode of conservations by the lasters and their despitants.

At four of task on Friday, Joh. 21, the essential of task on Friday, Joh. 21, the essential of the day attended with the rate which had there was no bearing of any of the lawsers and their aides, except "as may becenfter be disclosed to the Court in a need." Apparently, this me sufficient there were no wiretons of the me in that there were no stretures of the dicters of that time. If any wording was discovered in the future, the nidge would conne record of it. The distance would asset must be sent notice by the prosecution that loss had been filed with the nide.

Wirets i Revealed.

On Mindia, Joh 23, the define compliance to the bidge that the government streament about thing other wiretus, such the exception of those librous if disclosed was under duly.

Berne ripled that the government's use of these doctors are not under the feet. of "here ofter" was not unclear. In fact, he said the government had told him of

he said the government as until we seement had filed the log of a wiretop sometime between four o'clock, the time of their first statement to the miles and the o'clock firther and the o'clock firther and on notice of 125 of one had reserved no notice of the Gloro that warranging and argued that the government had meant to in-lead them in their first statement to the judge. They doubted that a wiretap was suit death discovered by the governto it I tween bour and for oil ak

strict. "If reject the is the most sections shocking and sharpful enough the record in this entire case." The defense instead that the discovers of the wardup on their their to the an-swers to three questions.

What are the contents of the tan

1) What are the contents of the tap-ted consentions? 2) Is the wiretap legal? The Supreme Court research ruled that wiretaps of demostic groups or in-dividuals are illegal unless ordered by a

3) Is the wirein relevant to the case? They claimed there would be a indicial hearing to decate whether the wirefup is proportant to the case being

On July 25, Judge Byrne denied the three questions, stating that the wiretan "was urterly without significance or relation in any way to this case." The next day the North Circuit Corre or repeals, which covers the far western states, backed up Judge Byrne's decision. The defense then appealed to Sourceme Court Justice William O. next day the North Circuit Court of Ap Supreme Court Justice William O. Dougles who hears coses from the Ninth Diagraph with the Success from the Sinth Circuit for the Successe Court. Govern-ment prosecutor David Nosen told Justice Douglas that the wiretay in-volved a "fereign installation," and that volved a "foreign installation," and that only approval from the Att oney

#### Douglas Rules

Justie Derighas riled that the issues were important enough to delay the trial until the Supreme Court as a whole could decide whether it wanted to hear the defense motions. He stated, "If the trols every federal tred in the land is the trots every federal trol in the land or the Constitution and the Boll of Rights, the prosention as well as the accused must submit to that Liw." The Supreme sur-its now on vacation and will decide whether to hear the case when they reconsistent in October. reconsene in O. toher.

On August 9, Judge Byrne excused the jurers for at least several ru athe He ordered them not to read news aper articles or see any other publicity neut the trial or the Pentagon Papers. The the trial or the Pentagen Parsers. The defense asked that the pury he take i off the ones. They access it would be imporatived and a hardship on the jury is to expect them not or read a newspaper, watch T.V., or talk about the true for several months. For the time bein, the judge has gone along with the goernment's desire to keen the present very

#### Speculations

Jeff Kigers, one of the delense r tur-ness, told the Pentigion Paper. The delense feels the tomig of the trial might play a crucial role in the Presi lenmight play a erry oil role in the Presi len-tial camping. If the trial states in the beginning of October we move still take a chance to bring the Cets contained in the Pertugion Process hafare the American public Howevey we are a raid that the government may sits to time those so that they present heir case just before the electrons are we have no chance to present ours and laf-ter November. In any case we are point to contribute to appeal out. to continue to speak out against the aut, and talk sheat the content of the Con-

and talk unear in-tagion Papers."

The Summer Court goes back into session scan on or about October 9 If at that time the Centr decides that it the countries. the true two the treat decides that it does not want to bear the armineness about the wiretippos, the trul will met likely start around the mild of of October II four instince decide that the the is in portain enough for the Supreme Court to bear, the trial will controlle to be deleved and would probably not that up again until ifter the beginning of the new year, we months after the trial first began.



The physiotherapy section of the Little Mai hospital in Hanne is shown here at runs as a result of bumping on June 27, 1972

There is not the slightest death that There is not the slightest doubt that the presence will be released. In taking with the soliton of the traject paper, there has not that it to adjuste it was an illustration of that if there were a change in the adjustant train, that presences would be released in damary, 29, 1973. The Ferrigia Minister said it will be done in a record of incomi-

could be done in a period of time.

I think accords who true to fell you the president would be released activing to use the presence politically or, as the Foreign Monster and, cares more about the Thies government than the

the boulding is informatibes oil description. The month box of this II faction. the self when the war is over Everyone. I found to in North Viotion Indoors the iff he released when the war is over and wants them released. They don't end to be found to in the kills of the interest of th 10.96

front ton the wall of a woundary relied in the lettle village of Va Varta if the physic, "Teach Well, Learn Well," I tore the distremational task of that there is that there is that how to dominate of school ter star A to Boll A good become for

and the second second

# Paper, Expose Rigged Elections

was closted President of South Variante \*\* . \*:

He compression to be seen as forces and addition. As a Franchise less, and to mend Big Moch arthura trend true come in causing Theories to all with the epition. At the time of those enteriors. It can be taken were strength continued on the first were strength continued on the first were strength, as the categories. These which as we the categories of the reference text is tainly in makes or fix experience to it is tainly in makes or fix experience to it is tainly in makes or fix experience. However, have excluding similarities to other South Victorians similarities to other South Victorians elections as recorded in the Fourse of elections as recorded in the l'entacen

The Geneva Accords

The Geneva Accords
In 1934 present contributes signed in Genesal concerns, I Vertical Action parameters distributed by the bowers North and South Vertical action as to be taken place and Via man was to be taken place and Via man between the taken place and Via man between the Month of the Control of the C shall See Doin Darm, the US (Some to rule South Vietner, durit benead any responsibility to abode by the Accords Certain that be would lose Dom was determined that the intercenomity supervised elections would not take place US Secretary of State John place U.S. Secretary of State sum. Foster Dillies suggested terms he may sure the North Victorian on a suid react and that "would be to Diemic marked advantage in world opinion," but, "Diem found it.

"Diem found it preferable to refuse outright to talk to the North, and the US endowed by policy" (GP), Vol. IV p. 7). By 1955, U.S. support made them feel

ecure enough to order a referendum in which the si ters were tachieve between him and Ban Dai, the former Engeror Washington, aware that the referendum was riczed, castioned Diem to de larghe he had won no more than 60% of the vote But Diem claims. a "too recording" 92's vertices and p. wlaimed himself the president of the sex S. in Viet. names. Republic (S' P.). IGE, Vol. I.

In 1956, to it, are "ght control from Saigun. Diem air, s, ed the elected councils that ruled the villages These councils, set up by the penular 1946 government, were based on Victoimese traditions dating back hundreds

Diem appointed his brother, Ngo Dinh Can, weern Another brother Arch-bishop Ngo Ding Thuc, provided him with church sanction for his policies,



er for third be other. Not know Nor developed the SVR security existen, in-The Embras land of the other was

com represent puller mensures unit mulitarial necrots unless three feel to

militard arrests inflow those fed to emphyrapsing press stories (PO). Vol. IV, CO(h). Rv. 1961–1984 in a to Diem was walespread. The US has continually created the impression that the National.

created the impression that the Notional Liberation Front (NLF) originated in the North Actualis.

The near boson largely as a rehellion in the South national the increasingly opposition and corrupt many of Northing Dom. increasingly approach and communication of New Dinh Diem "
(NYT. p. 67)

U.S. Engineers Coup

Tensions reiched a climax in 1963 when government troops fired on unar-med. Buddhists. Riots, and demon-strations followed, but the Kenneds administration was unwilling to support any move to neutralize Vietnam or pernot the establishment of a popular electroment (GE Vol III, n. 225-232). In-

g vernment (GE, Vol II, n. 225-222) Instead, Diem was inserthrewn by a military coup that the United States belied to stage. For the Allier on Practice of Man Dinh Diem the US must occur its full share of responsibility Begins and in August of Bort we entrade authorized, sunctioned and encounted the coun efforts of the Victualities generals and offered Victnamese generals and offered tall support for a successor genera-ment. In October we cut off aid to been in direct rebuilt guing a green light to the generals. We much tained clands-line contact with them throughout the planning and them throughout the planning and execution of the coup and wought to

We called of I said fee to me to

We called at Localities tomorism most field of two in who as a money fitness his account throth on a visit. The opening moment of that again the opening moment of that again the opening moment of the System field considered the constitution of the Negotian through the high mode are visited. We likely what are visited to the most house election which the the most house election with each two health in Northam?" "Oh state beneal, visit persent that which "— Norm was setting howelf in an armitism out to hardedless — " or long its visit me." With the last words he without in a few long in which it is no become hard per Lim.

de von tre. "With the fast words he winked dr. in his elfow hird jeta Lan-stale's ern, and, in a return morion, scapped his own knie. My teaminges turned to stone

Daniel Flishery

were and alana und prof red rea government GE Vol. II. n. 207.

The next three years was three different military juntas in control at

ar breader Heary Cabet the accession (Heave Cabel Ledge) considers that the Bel and was the new government in duly He cuted that they are in a most divide state, and we not ready for a system which replaces Auronman's by elective serves rather then he tintence; that this is bround their horizon at this time and we stadd not seek to recreate in Verticin our image of the demoral ideal." By 1963 the GVV (Government

of Victorial was on the verse of defeat and unother military governdefect and unather military potential ment was unstalled under air price. Vice Machall Neuven Cao Ks. At this many Washington was getting tred of all these cours. Ambiasador Taslie met with Ks the minimag after the avertheur sysing. "New you had made a real mess. We cannot correct and forces of the second of We cannot carry you forever if you do things like this,"

Rigged Elections

For give a nic semblance of providing South Victium with a civil government. a constitute oil contention was called for in September, 1966. In trying to make this change to a legitimate govern-

The GVV systematically excluded from the elections all persons con-nected with the Struggle Movement whe Buil tel groups) ... on the ground that the GVN Sould

not be discourred from tilling molecule measures to increase the too from the gravitary technical parts of influences to them to the country to the country.

atter ved IV Cu pa Before the Presidential common begin reality developed between the two boding catalottes. Fremen Ks and General Thom. The interestion beginner that the U.S. Lock measures to

so finite that the US took measures to keep the two apart. Standy, Kya greed to run 1 i the vice measures on Thesis ticket. GIV, V i V, V iii. In the Vietnamese president of electrons on carded takes who advocated a periodial settlement of the wir or necotations with the NFL were on the ballot. Neither Treu nor Ex were required to resen from the armed forces of V V of V ii. In these was little to commend.

By 1 mi there was little to commend -By 1407 there was little to commend, Ameri an contidence in the Socyal constraint. Whatever government the US choose to support, the Viernamose people had their own ideas about who best recreasement than interests, "Without's a nu exceptions occur reports suggest a continued willingness on the part of the point ince to under his Harma's policy on the next.

primate to anote by Harri's policy on the near, CIA Memorardum May 1967, GE Vol IV, p. 1687. The Pentagon Pares make it clear that since the Genes a Accords of 1951, that since the General Accounts of 1993, there have been in house electrons in South Vietnam. To node by the 1971 electrons that struar in his not, hanged, and can only change if the U.1 with draws from Indo-China and periants the tetnamese people to choose it ir own government

ites from the Paper which were used in the article come from the fellowing

NYT - New York Times edition;

available in Bantam naperback

GE — Senator Gravel edition: 4 volumes, available through Beacon

GPO - Government Printin Office edition, 12 volume, somittie in 311

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#### Those who have had achince for four years and could not produce peace should not be given another chance.



COUNTY and ALCO

### Indochina Peace Campaign Begins

Between Nixon and McGosero Le the and government designion around it. The Indishina Frace Campaign and the Pentagon Papers Project are now in the process of starting independent campairins wise purpose is to tring offer-mation about the war to American voices. There role is too bardy for the public what his bapiened in Vernam under the eliministration policy of "Vernamation on the War Nixon, the Fern-ing of the Communication of the Com-line of the Communication of the Comtagon Papers and the Ellsberg Russia

The Indulina Peace Compaign is an outgrowth of the Indichina Into motion Project. The Campaign has three Courts - a National Tour through seven key — a Notional Tort through scen new States, a State-ord Conforma Campaign, and local Los Angeles events. The Campo zo has Lett goals— —The spice. Nation's contention that the war is wiseling down.

"To explain and support the right of self-determination of the people of In-dishing including the Seven-Foot France Proposal of the Programmal Resolutionary Concentrant (PRG) —To conferm togething to the war

during the election

"To put in the attempt to defeat Nixon in November. The Corps of user three slide shows and a graphy exhibition which are distributed and shown to any group an terrorted. The salle shows are:

The effects of US Intercention in

Pentagen Papers and the

Mary to the way of

#### History of the War -Cultural History of one resistance movement in Vietnam The exhibit is a graphic disp ay en-titled "The Rising Civ for Justice" and a photo display with Pentagon Paper

Pentagon Papers Projet has Jaunched a community by community area cannongo in Los Angeles, or talk about the War, the Pontagon Supers, about the War, the Pentagon Japens, and the Ellsberg-Ri to trial There will be leatletting in slapping centers, guerilla theater, distribution of the Pen-tagon Paper and Wor Bulletin Side

show presentations, and the showing of a 1/2 hour color film, The People Should Know, about Ell barg, Russin, and the Pentagon Papers
The community effort will enounate in a ralls right before the elections At

hat point the independent comminute had week before the electrons to bely in the attempt to deteat Nazin and coul the

The material can be obtained along oth more information at INIXX HINA PEACE CAMPAIGN

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X Town or State

## vvire ps Lestroy Privary: A Century of Spying

The right of the points to be secured to their means by a section one was the first terms of their means by a section of their terms of their means of their terms of their means of the terms of the means of the means of their means of the means of their means o

United Sites Constitution

Alexander Graham Bell gave the fele base to Araris in society in 1876. Shortly therefore the New York Crist Nortly therester the New York Crist when in therence is an indicate when in achieving is an indicate or surveillance Same than weating on this bean a subsect of continue a public concern. It is one aspect of the controvers, which has been responsible for the current delay in the Peringen Programmer. which has been responsible for the current delay in the Pentagon Papers

be noted of February transcent of the beautiful for the beautiful for the Latest Land Latest And that are districted and the Latest Lat for it to welcoperat taining

Nixon Taps

the Nison administration The first the Nixon administration there had been a careful sense in quadronic to take and ifference processing fore in the are. Dimensionapproximately, set a tion in the as-Domestic tage rosis rods, cart, old, while Group is weare outside to exclude the exclude of the boundary of the last weareness that the Execution of the Execution of the transfer of the constraint for a state of the transfer of the constraint. n der ansone whom if regardel as a n der ansone whom is engen. Attornes the et to the national security. Attornes tornes il Machell signed himbiede al much marders covering a wide range of disasterit groups and individuals. The

the Others to be sugged?

The counts of writer in one was that it is at each disorder suggest limit and a soft and the other that it is at each could be full be shown the street of a disorder out. In the continuity of a single operation of all of the color of the street how rectioned, and of the counts for a defence, at other persons who use his telephone will be succeeded and anyone who will be now the color of the form of the time for the color of the co I fine the father his re Yet in

2. I stime the of of the 1 loss planchouse time 1 by the Now York Cits. Prince Parartisent were public pay pitions. The nature of the logal dispute in which the Pentagon Paress will be a fig. 8. The assemblent in order to de-ter a merchanical American introduces in the international properties. In the case members of the defense term, the model. through a tan involving a "foreign in-scillation". The tan was not court or-dered, and may fine been unconschuttered An added issue is the Supreme Court dession of three years ago which ruled that individuals subsectazis which ruled that individuals solves in ed to illegal wheetaps have a right to the transcripts of the tops of thes are being presented. Function Parers trial Judge Martines, Berne and the covernment rulese to disclose who the individual was, or the nature of the conversation. The bond artherity rests with the Signo ne Court when it reconverses in One deer.

Staff for this issue, Paul Becker, Jim Beckerd, Debbie Backerl, Bob Gortleb Debbie K, J.L., Bick Lott, Bor Lie et-min, Handl Meskontz, Jonathan Olom-Ire ve W., Lee Weinberg

Poems: Victnam veterans from their book. Winning Hearts. Ant. Ments, published by 1st Casualty Press (§) 95 at the Melnight Special Bookstorel Grap are Barry Chersky, Vietnam Ness a Agen y.

Top Secreti

indicary secrets as many people femore. Actually they are a consider best-cy at the Vietnam War until Engl

the Viction War unto 1 no.

The Papers are the product of a study recognize anothin 1967 by Societies of Defende Halbert M. Namers, 16 pageon with the disk. Defense Rideet McNamera, Its proposes with the slow line, and why the L.S. In other involved, in Australia The we may ask has of totally in proceedings the street. The Payers were kent to most let's because their showed how the coverament had held to the public about the nature of the Vaction Will.

In 1968, Daniel Kilcherg worked at Rend Concerning.

In 1969, Manier Entering morning in Rand Corporation, which does a lot of work for the Delense Department. As part of his job. Effichery was one of the three people who had severe to the compeople were not access to the com-plete Papers. After reader the Pennasia Papers. Ellsberg thought that other people should know the truth about the war So did Tony Rosso, a former co-

In June 1971, articles from the Pen-tagen. Papers: appeared in the newscapers. The government fried to new conjects the government rises to step the rew superse from process what were supersed to be secret designents. The New York Times won the Pulater Price for printing the Papers but Han
 Elisherg and Tony Russon were arrested. The charges against them are steaming give naient documents, spring accuses the givernment and conspiring to comnut both ther acts

not both these acts.

The government wants the trial to deal only with the question of whether or not Elisberg and Risso gerosed downments that were marked "top secret." For the defense, the trial insolves the clear question of whether the raidle should see the commands downsource the clear question of whether the public should see the covernment's deary of the war. Do the people have a right to know, what's inside the Pentagon Papers?

Pentagon Paper needs to hear from you - ideas, criticisms, articles, are is to over. We can especially use articles or information on secret activities of State. Local, Federal Governments, and Cor-



trial Specifically, the has to do with the right of the government to tap without a court order, a practic declared unconstitutional by the Suiteme Court in its decision on June 19 of this year

A History of Bugs

A History of Bugs.

The legal quests n of wiretanning has been in the Supreme Court since 1928. At times the practice has been condoned. Heaveser, in 1931. Compressional the Federal Communications. Act No. (9)5, which probated the interception of any communication, and the tion of any committee the intercep-tion of any committee and the disulgance or use of such com-minimation. This set the standard until 1912, when the Suprame Court initizing

State authorities have long mainthe prosecution of guithing and drug cases. Opponents of a recuping point to a consistent record typical by the most resent statistics from 1970, in which 151 consistions resulted from 15,000 in-dividuals being each and This was at a arronauts teams oscieth and I his was at a cost of well core \$1 million, and does not include the Tirge amount of savesdropping carried on by the Federal Government under the hary blanket of national security.

National writers tape have been in

admitted use of taps in the Chicago 7 and Berrigan trials furthered the public

outrage, and this June the issue finally reached the Supreme Court. Ruling that the government had wolsted the 4th Amendment guarantees against intreasonable war hand seiz ire. Justing Lewis Powell rejected every administration argument, including ternal wearity matters are "ten subtle

and on ples for edges."

The decision was unanimous, although recent Nixon appointed William Relinquist disqualified himself. from the precreding be also be load presented the case for the Justice

Department
Veteran civil liberties attorney
who argued the case Veteran civil liberties attorney William Kunstler, who argued the cose before the high court, and that the despion was "a roadblock to the Nicon admonstration's attempts to institute repressive measures against those Amery are who designee with its foreign and discovere indicate.

and domestic policies."

It his been argued many times before the court ofter any form of wice operg is in direct violation of the 4th Amend eriment officials shall only be allowed specific warrants of search which describe the "place to be searched" and



The old Crain temple of That Ea. tive locals say it's a thousand years o'der than this stilled Anglo-Sixon language luse Other they say than the use of bullets, ballots, and the printing s der than the airplane and the bomb older than napalm

vas hit jesterday by a twenty-year-old fresh from the states who fourd it more esstatic than the firing range for testing his guns Jan Burry



The Fentagon Paper (now combined with the War Bulletin) will continue to noble a two e a month during the Pentagon Papers trial postgonoment. It will point current information on the war, material from the Fentagon Papers, articles related to the electrons, and any exents of importance to the trial.

The Paper is distributed from in Southern California, and depends on contribution to pay its costs. Much of the financial support has dwindled since the needs mount of the trial, so we need were help.

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otters fel in receiving bulk or less (10 cours or more), the cost is two cents per copy plus surpang. We urge people to retain any articles at no charge

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## Mariand Festival Circhaetra Planta they Two Weeks 5 Grand France - Burg Co to A the ... Silde Since Workshop 12.3 Care " Yest for all res U Stylind Feether of the Arts 2 past concern to the second Asia or 3 PM A 1 to PM Bound Tream 5 (City or 15 St. D. statents.) Je Williamson Ligraning Mopaine Ast y. to 8 0 M 27 Series Core Semession de la serie Core Self Hele Clinic for Women Wegister W. Freeze the War and Not the Wages 1 March and ratio soursment to Corp. Brown Children 11 AM 3 Par Call for into 581-2150 or 564-8118 Register & Tyter Hammest comedy teams Elga Etal Hopkins (1975, page 3). At Clove & P.M. General Membership Moetling, Finh Bank — Elber str Food Comprise, 1772 Surset Bild, LA, Call 487—20, for deliate Chicago : "New Sect 31 Green Training 23 Pregnancy Screening Vinsts to Women's Center 218 for Jenice 26 PM Mock Trial of U.S. Army, Monterey, sponsored to VAW (Call T44/52 for details) Detate between McGovern and Nizon representatives Spons redit. Sim or Citizens Bewers-Carl higher 94-00 Williams, Bit 4, 4, 4, 9,99 The Kinks Tay Manal Santa Monica Crine Aud 8 P.M. St. St. St. 29 U 30 Music and Dinness of Mexico, UCSA, ourside School one Mail 12 no. n. html The Gines Managerie" thiny Did 211 Gala 5 Afterna Pilm The Organizer, marring Miscelly Magazings Tractors Min. in 71: 5 Park Sies L.A. Docation & P.M. Mythold Feetival Chandler Choir Brian an Sheight 55 CANATA Ideleid Call 8 ISPN \$1 adults \$1 distances Jane Fords speaks on Floritons and the War Stone Mills or the bean a b) E.M. Training March 215 C. Floring Community on E. S. Community of the Community of the

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Sectionbur 1979 Protagon Paper 125 W 4th Street Les Angeles, Cartornia 90013 (71.1) 4 4-42-0

#### Legal Tangle Delays Trial

In the 1971 of the four the Feetal of Physics and the Property of the Property of the Vices of the Internal of the Vices threat for the No. Some about Tens Rosen were attended fire were arrested fire were about the way about the way about the way about the way about the second with steading a second to the second with steading a second way.

The first Name and deciment as the first of fines of the son incurs of the son of the first the risk was some in this, the the fire was well in the solution day and the later, distribution for the solution of the solution date, the indicate shades and the solution of the solution die the info charry the co-peterment had become to meet satisfaction dentes me for of the defense to im

defense to an Therefore a armost the armogra-titled to know the contents of the titled to know the outcome of the tamped course return. These was denied by deather By never billy 27. The next day the Norm Circum Court of Appeals backed up that

The different that presented to The defense that arrested to Supreme Centralist wildfam O. Dougles who have assess in its North Central to the Supreme Court, Justice Dom as miled that the issues were in posture cough to delay the trial until the Supreme ay the from unity the Superior off as a whole could decude ther it wanted to hear the Court defense er tions

The Secretar Const as now on Pro Secretaries for pt is now on variation and with do do a to tage hear the conservation of a conservation of taken I at that some the Court decides that it does not want to hear the arguments along the wiretanarough the models of the ter If four justices de ide t'est the case is important energh for the Supreme Court to ! or to try ! will entitled to be delived and sould probably not start again until after Januars. six months effer the total first la gan.

# Ellscerg Meets the

ned to escalate the Inde hum War sected plan to cod the war was in fact senter plan to colotto war was in fact at we place of so-anation, involving all of the trade dog all many that the US could mixture A strategy in which the US received cold from Victiman was never considered by the President and his policy-makers

These were the pear is emphasized by Daniel Ellaborg at a news conference on August 22 Stating that Nixon embarked for a conscious nodes that modeled any possibility of pages than a pear that the conference of the pear than a pear that the conference of the pear than a pear that the conference of the pear than a pear that the pear than a pear that the pear than a These were the part a emphasized coment a lest no! !!..!! of the Nixon policy.

Secret Operations

He also talked about some of the secret military operations which were carried out in the first ten weeks of the administration. These held to the widening of the war and militar were the first steps of Nixon's escalation.

In December of 1968, Ellsberg

of a Rand project which outlined the options available to the the results of top Presidential ad-ware Here. Kestinger, the paper lists, over possible revises of ac-tion Topic ranged from total way to

tion. I have ranged from total way to mile and Andream witherwal. A second draft of the major was sent to the National Science, Coun-th, to be formally considered as the hat for the new poles this drift was described to the pre-s as encompassing, "the complete tange of options," there was one inrange of operation : . . . . . . in he had the I the feet In the seed A draft. Residence eliminated the ction of a planned American with relational by a fixed date. The National Security Council was presented with six possible strate respond to d which curanteed a continued mittary involvement in Vance & Part disconlined. Viet in Each demanded the sur-yield the Thieu regime.

The plan which was adopted — tver? "secret plan to end the war" tripled out to be a policy of

escalation While trum withdrawals were being carried out, the bombine

#### Nixon's Escalation

Nixon's Escalation

At the press conference Ellsberg described three secret operations which took place in 1959 to stow North Vietnam that the U.S. was prepared to escalate the war.

The first of these was a prolonged Marrise interior of Laus, Heavy B.52 raids were then created.

raids were then carried out in Cambodia. Navy froguen were sent into Hambong harbor They were training narmer they were continued to be detroid. It is the Victorian con. The by the Newth Victimation. The operation was never made public until the Edisberg press conference It was meant to be a signal to the North Victimations that the U.S. was prepared to raine the pert

Eil-berg's main point was that the Editoris main point was that the Aministration never considered a policy of withdrawal — a policy favored by 73 percent of the American people. While Nixon talked mace, he made preparations for further war.

#### Local Labor Scvern "We're going to enthroustwalk

support him."

support him."
With this statement, Gordon McCuffends bead of he Carpenters Union Distract Council of Seathern California AFLCIO, joined dozens of other bless oftend in the both for all the Carlos of of other later of mail in both local and state AFL CIO to be a series the country which have publicly backed the presidential condition of Senator George McCover

These endorsements on a methodecisions of the patents of Add (10) leader-hip under George Meins, have sent shock way a the actions the organized fabor in venion. They could produce important elsaces in the Federation well post the Novemher electrons.

Convention Contraversy

The controlor we get next at the Calmonna Scale A. L.C.O. one-vention field in Lie Armie, in vention field in Lie Alexies in late August Altmostly the consensation failed to pass any paralential ender cement, pre-Mattewern feelings ray very high.

Beatings for very high. The distribution was underded at the early's against the convention. M. Burking rate of COP, Albertanita uniPolitical Lorentzian Algorithm and AFL CIO provident Group Memoria. AFIGURE product to over News a position of not supporting either McGovern or Nivon. Residence, calling for Nivon's old at well submitted by three Bay Area 4 dooring initial by three Bay Area 4 dooring initial his three Bay Area 4 dooring initial new world not allow a three lendership would not allow a three

vote on these residences other motions favorable to Garen

But when Senator John Tunney (Dem Calif.) addressed the convention and called for a Medicarra vetren and causes for a Sectionerry sector, he received a star cing ovarion.

This led to a meeting of delegates from almost 75 union; which formally set up a Local Labor for McGowern Committee.

The resolt in Southern Caldornia is especial of expert which have taken place in AFLA 10 organizations size the Democratic presentation contraction Means and the ton AFL leadership backed Humphrey for the troundron After M Govern was nominated, the 35 member AFL Executive Council net and cassed a resolution declaring the Fe heartings mentalize and a programming the second of the council of the second of the council of the second of the seco neutrality to the enopsion. The motion was purbed through by Morey, despite strong resistance

Warnings Issued

. Means then said out strong warn ing a curst appearing Metioners to sanction, were theatened if they did, atthough redividual interes could take a position in the can-

posts Opposition to Means's orders from state and local labor offerals and rank and tile numbers has grown The reper reds as irremaing of position to narraid ATL policies, Meany has been a strong supporter of Nixon's Victoria policy, and has

lebba c in Congress for the SST, the ABM, and incher detense budgets. He sat on the Lav board, including to enforce Nixon's wage freeze.

#### McGovern Support Grows

McGovern Support Grows

Such actions have erolded Meany's
support within the unition. Surport
for Metiovern is now rising in the
latter reasonant, and more unitions
both in and out of the AFL-CIO are
planning to work for McGovern.

A Neuronal Labor Committee for
McGovern has been formed, with 27
All Let D in its management of Them.

AFLECTO in its paining so far These include many of the nation's largest unions, such as the United Auto-Worke, c. the Menteutters, the Modan its, and many others

The committee's non-1, to use its 250,000 budget to put out literature and pullicity to encourage the rank and file to vote for McCovern. In and 1the to your me only, no biding many parts of the country, no biding Scottiers Calderna, Local Labor for M. Covern Countifices are working closely with the McGesette attantion

At the turn the Milliagra con-At the time the McGazeri con-didices in Stacoully a slight effect on the AFLCTO and the labor to remed as a whole four new tolation lips are developing bet-side in Percentage Party regular-ger McGazeri campaign of the McGazeri campaign made in The rink and the may now be arministed to challenge the mes be stranged and to challe the the trainformal grown beater top during piter the elections

"What we need are not more millions on welfare rolls, but more millions on payrolls." --1968 Campaign Brochire

THE STREET PRINTED AND SECTION OF THE

"Government must say what if means and mean what it says, E-conomic credibility is the basis for Economic creationity is the basis for confidence, and confidence is the basis for an ongoing presperity." --1970 Economic rep at to Congn ss

#### **Nixonomics**

On June 22, 1970, Nixon veteri the hospital construction bill which provided for so one jehrs. (Congress override setat

In addition, 2.6 million jobs were to t when Nation religied to use \$12 billion in limits appropriated by

On December 16, 1970, Nisen select the nampower training and em-pleament full which would have provided market public service peli-

On June 29, 1971, Nor in voticed the accelerated public works bill the would have created 4,50,000 feb ; in communities with high unempleament.

## vietnom Women: Sorrow & Struggl

#### Basket Cane Br a Vietnam Veteran

I waited incretein sears to become a man At thist woman was a whole off to the street But I wish I never for the first wind Giding hist, because the race and thrust a none eaught me hip high I telt the rip at the wills of my thighs. A thousand metal system cut me open, At little fed; shot twents sards Into a swamp canal Into a swarro canal.

I tathered only the — the geoderless bitterness.
Of two surror, and an instanted pils.
That births the twes of all.
Who will see me till I die del nously. from the spreading sepais that was once my balls

421-1-1-4-4-4-4-4-There are over 500 000 prostitutes in South Vielnam. Vistes are thrust into prostitution from as early an age

#### Black Flower

by a high school boy from Da Nang

You sit in a car With a foreigner And wave your hand Is it to say goodbe to me, Or farewell to dass that have passed? Your face reminds me of someone I have known; I search my mind try to remember who it might be Who has viewed to me in bitterness or sympathy

My God' It is you, Whom I love, whom I have spent happy days with; Innocent and small, With soft cheeks and full lips With virgin skin unblemisted With a scent fine as the trailest flower; The one I worshipped and respected And now all that is traished. I remember when you were a student not long ago, Holding your palm-leaf hat against the sun To shade your face,

Pouting when the teacher gave you a low mark.

Now you exchange your flesh for money, Dress up in powder and perturne You are called Sirs or Stiss— Does it matter? You are a latter glass of whickey Which people of a different color, different race. Buy to satisfy themselves.

And I, still just a guy Who morning and night.

Drags his feet to the cate we knew then, Without money enough for two cups of coffee I look at the people. I look at you there, I look at everybody And I bow my head to wipe tears from my eves

I want to take the earth in my hands And squeeze it so tightly.

The meridians will be equished out of shape So we, following our separate lines, Will never again meet under the great vault of heaven Because a dream is always beautiful, Don't you agree!

Oh but the cruel truth is The day I really say goodlive to you I will instruct the sun not to me So I can hold you in my zims forever,

And will not tremble with tear, So no one will see me blus And my shares will be hidden. Do Hon 1

In this ever pureasing force of the liberation in occurrent of our en-tire recepts, the women of Viet name are lighting shoulder to shoulder with men. In fact, in the history of Vietnam, among the first ones to streade for the national liberation W. comment

Gar den nha, dan ha that don not, that easy that don't be some, with the sear 40 AD, the Trung

In the year 40 A.D., the Trong sisters stood up and regained in the har is of the Chinese. Tring Trac, the 'ilder sister, yewed to pay her debt to her homeland and to avene the faith of her limited who was murifieted by the Chinese.

Vietramese women as an inferer class After the Chinese, the French came. The Vietnamese women then had to bear a double yoke: a feudal one and the colonial one. Their role in high systems left them the slaves. of the enslived However, inheriting the heroic tradition of their an-cest on Vietnamese women never acce, red enslavement. On the contrar : numerous insurrections against foreign invaders were raised against forces invaders were rateral by tomen, to structle for national liber fon and solvation. We men contibuted a great part to the glorids victory of Dien Bien Plu which ended eighty years of French colon ties. colon alism.

colonalism.

This unvielding spirit of Vietnamese women springs from the realization that the fate of women is closely tied to that of the wilder peor it. The pedicy carried out by the French colonialists and Vietnamese peasants and workers — to their bone and marrow, It was not uncomon to see women peasants in fat. mon to see women peasants in tat-tered clothes pulling a plough in place of the missing buffalos. Dif-ferent kinds of taxes drove millions of Vietnames into standing. "Hardly vas the horsest brought in when there was little left to fill the pot." For a living, the pensant had to hire out his wife and children.

#### Herr lc Woman

Bearing untold sufferings, Vietnamese women are aware that their own liberation is impossible until the liberation of the whole people is achieved. Sacrificing their whole life for the future of the country, Viet-namese women always put their per-sonal feelings second to their love for their land. For the Vietnamese the housework and the social ta-k are but one and are of the

Hen is soor nature land with me in one hand and place in the other Show all dates with men. Fromy comes without way to minist

And green recticld stave as given as ever

One recalls the herene example of Mes. Ba, a woman peasant in South Victinam. Her hashand had joined the liberation forces for many sears. the liberation forces for many sears, facting for the recople and the country. At home, Mrs. Ha cared well for her seven children. By herself she had dog many trenches to protect, her children from the hadric bombing and bloody military operations of the enemy. Her deeped has for her children has carried in Operations of the enemy. Her despendence for her children has carved in Mrs. Bu's heart a deeper, a greater love for the village and the people won in had always fought acunst the feudal system which oppressed boulding run. With blood bedline in the poor people and which tre-und Vietnamese women as an information. her veins with patriotism, love for the people and hatred for the enemy, she singlehande tiv grabbed a offe from a guerilla fighter, shouted with all her might and started shoutin; at the plane. The villagers, seeing this bergie act, joined her in striking down the warplane.

#### Long-Haired Army

Nowadays, as the whole Viet-NOW MANY, as the whose view-namese nation is waring a heroic structile against the aggression of the U.S. government, Vietnamese women continue to fight and will fight until the whole Vietnamese people are liberated. At the present "Long-haired Army," is led by Mrs. Nguven Thi Ding, the first woman ever to assume the responsil ility of ever to assume the responsh him of Deputy Commander-in-Chie. of an army, For those notice who are not in the army, production wisk is a great task to fulfill in ord, to build army are hose for the collapseous a strong rear base for the co rageous fighter: at the front:
"Go and achieve brilliant

exploits.
I'll take care of the house and the village fields."
The village ricefields, the life of

the hundred households are the ties between the front and the rear, embodied in the ties between the women and their men. This soundless love is expressed in every minute care women have ta'en for men and for the country. Ti at immense love, mingled with the resolved spirit of struggle, makes it? Vietnamese will to fight to their freedom and independence unshakable.

Hon Binh is the pen name of a Victnamese woman from the southern part of Victnam cho is now a student in the United States. The name Hoa Einh means reace.



# Deportation Law Proposed

The proposed bill a specia of by Leter Redme in the House of Representatives and Finantial Collar and Ted Kernedy in the Senate. It has already possed the Senate. The law would mean that a common The law would mean that a base who have someone without US citizenship papers or a work permit is subject to a \$500 fine and not on some measure. Their ressent manual data to a some measure of their ressent papers of US of their who do not have the ressent to the papers of US of their who do not have If their then Lass close relatives of US contacts who do not have permits to live and work in the US can remain in the US while their desuments are pending to smally a pair and a briff. The new too word. the state of a buff. The new test and the fact of a buff a buff and the state of th a gild be deported until they receive their distincents. In more cases the will me in senarcing parents from Vesing children or forome the victor

children, who are US carriers, to leave the country with their recents. In 1971 the California Legislature passed a similar law called the Dison-Arneri Bill This law has not been entoned because a Federal Court in Les Arveles has said the bill is unconstitutional because of its varue language.

#### Treaty of Guadalupe-Hidalgo

In Mexico, unemployment is over 50%. Mean Mexicans come to the United States to find work Mexicans do not look at the Mexican US bander in the same way as other national horders. In 1849, Mexico 1965, 196 national folders in 1848, Mexico and the United States signed the Treaty of Guadalupe-Hidulgo, For three million dollars, the U.S. got the Southwest territories of California, Nevada, Colorado, Utah, nia. Nevada. Colorado, Utah. Arizona. New Mexico, Texas, and part of Oktahoma. Because piece Mexicars lited and worked in these territories and were used to moving freely across the borders, the Guadalupe-Hidalgo Treaty con-tained a section which gave tained a section which gave Mexicans free passage across the border. The Treaty was signed by President Polk, but was never ap-proved by Congress. The three milion dollars went to Mexico, and in University States. the United States got the southwest territories

Mexicans have not looked at the

deport item of burde do of the bode of the bounder because of the nath of Mexico and on an include on the original bode of a con-before the United States Contrast, which or much belonged to Mexico. which originally belonged to Mexico.
The bester has been opened to Mexicans of various times during the fact Latveurs. When people were received to feithet the restroyds and harvest the crops in the West, bun-dreds of thousands of Mexican labor is were imported.

#### Thousands Deported

In periods of decression or concrue difficulty, the same people were shapped oil into camps and then back across the border to Mexico. In the 1930's thousands of Mexicus Americans, were rounded to aid one and These people were given no bearings. Many were United States entrains.

As recently as 1956, several ton-and. Mexican-American 1956, several thou-and thousand. Mexican-American fundes were rounded up in Las Angeles and birded into a femed off area in Envian Park. From there they were bussed across the border to Mexico. Many had lived in the United States for 20 or more years.

According to Gloria Chaver of CASA, (a Channe recial action organization), organized labor has taken the level in pushing for the Bodino and Dixon Arnett bills. Organized labor sees these workers as competition for jobs. They also as competition for jobs. They also believe that the presence of Mexican workers holds down wages in centeral

In the past, most Mexican-Americans worked as migrant farm orkers. In recent years, nearly 50% of the newcomers have come to the of the newcomers have come as the ciries to find work. According to Ms. Chavez, the Mexicans fill the lowest paying jobs.

#### Labor Supports Bills

Organized labor hopes to exclude Mexican immigrants from the country. Only a minority of labor unions the a finedly view of foreign born labor: they hope to solve the problem by organizing the new workers into the unions. The AFL-CIO Joint Board of Fur. Leather and Machine Workers passed a resolution station. "Unemployment and rising relief costs ... will not be solved by pitting native born workers against foreign born, but rather

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and security for ALL Agents and and security for ALL Agents and In Low Arceles the Mexical American recomments as soir Instrikes by Mexical Atterican works ers at plants such as Ramona Foods, and Zero Table Compans, und surperted Mexicans have been used as scales against their own countrymen. The undocumented workers, known as "illegal sheets" by the immigration authorit is has also been used to break strikes by a ricultural workers organ and by Organizing Committee, La cases Chicano leadership has taken a stand against the undersmented stand against the undocumented Americans Cesar Chavez, head of the LFWOC, has supported the Discon-American Rodine Julia Other Mexican-Americans are more symmethetic Many of them time to this country without documents, themselves. They say the workers are neither illegal nor alien to the United States.

#### Peace Campaign Resources

The Inde-hina Peace Campaign has been formed as an emergency mogram to end the war. There are four ratio

-To expire Nixon's claim that the

war is "winding down"
-To explain and support the right to elf-determination of the peops of In-

-To stress our responsibility to contime resistance to the war during the

-To join in the attempt to defeat

—To join in the attempt to defeat Niton in November. Together with the Pentagon Papers Peace Project the Campaign has several reconvers modable to other groups and individuals: These include:

1. A 12 hour film, SO THE PEOPLE SHOULD KNOW, about Ell-berg, Risso, and the Pintacon Payers, Rental is \$20.00; purchase for 575 00. Discounts available to groups

2 Three side show: NATURE OF THE WAR IN INDOCHINA THE FENTAGON PAPERS, and CUI RENT OFFENSIVE IN VICTNAM

3 A multi-media show: 400 ; 'ides a 40 page nurrative written by Jane Fonda, and tased interviews with Tony Russo and Luke M. Kissick. \$100 to purchase: \$15 for a showing

4 THE RISING CRY FOR JUSTICE: a room-size graphic exhibition \$150. THE RISING CRY FOR

5. Guerilla Theatre: Two skirs: WHATS ON TRIAL TODAY (about the Pentagon Papers trial) and DICK'S SECOND TERM. No fee. Serij is and lyrus available for cost of reproduction.

6. Posters 50 cents each.

7. Pentagon Papers Digest: a 50 page booklet of quotes from the Pintagon Papers (50 cents)

THE PENTAGON PAPER AND WAR BULLETIN Subscriptures hulk orders.

9 A paricular THE PENTAGON PAPERS TRIAL (10 cents a upv. 5 (10) each over 50)

10. Tapen intercious with Ethorg and Russo, commentaries on the war and the Pertag of Papers, (55 ren al per tape 1

11 A book, THE CREDIBILITY GAP will be available the end in Sep-tonian (\$1.25)

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Since the restrement of the Ethiliere Poisso trial financial support has dwindled. We need wan help H you can, please subscribe or contribute.

1 Send no n upbermen	orner of THE PENTAGON PAPER at 2 cents a cop 10) in to the page, (\$5.60)
NAME	
ADDRESS	the territories of the second
	I what is a state on a large way to be a second and

#### Lawton Murder Trial Begins

THOLDICENTS

The trial of Gos Lowton will begin on Separator II, a. India, California Lowton is chareed with the murder of two Riverside policies, who were killed on April 2, 1971. The officers, both white, were shot in a bin's district of the city in what relies of trials called an "ambush slaving". This was the first slaving of a Riverside officer in 28 years. An all points bulletin was issued for four black suspects between the ages of 15 and 18. Three were described as being 577, the other 6 four days was organized to find the killers.

What they found was Gary

What they found was Gary Lawton The 63" cy-Marine was a well-known community figure. Thirty-three years old, he had been leading grass-roots communits organizing in the Riverside black

organizing in the Riverside black community for several years.

Lawton was questioned several times in the period following the shootings and took wo lie detector tests. The tests showed "no deception" in his statements. A month after the history or the statements of the statements of the statements. tion in his stateme is a monin ar-ter the killings he via arrested and charged with the morders. Since then, two other will blacks have been arrested via g with Lawton they have been whired with conracy to commit murder.

Ballistics tests have proven that none of the weapons taken from Lawton's home were involved in the murders. The pr secution has produced two witnesses against Lawton, whom the community suspects to be police informers. One claims to have so I Lawton the shotgun used in the killings.

The District Attorney also claims to have testimony for n a 14-year-old white girl which link. Lawton to the shootings. Nothing—nore is known about her or her 'e timony.

Lawton's bail w + first set at

about her or her te tumms.

Lawton's bail was first set at \$150,000 Later this was revoked, on the grounds of the 'overwhelming evidence' available r jainst Lawton.

In December, 1971, the trial was a second from the carde to India. transferred from Riv raide to India No explanation was given for this, despite the recent detail of a defense motion to change the trial to Los Angeles or the Bay A rea. The switch to India proved to be such a hard-ship for Lawton's Lo vers that they were forred to drop the case A new lawver has recently had to work on the case from stratel.

Indio is a retirement community in the middle of the desert. Of its 16,000 resident, a vert 150 are black The purs will be chosen from this population. Asir the Pentagon Papers trial there will certainly be ntroversy around the composition

of which a mer

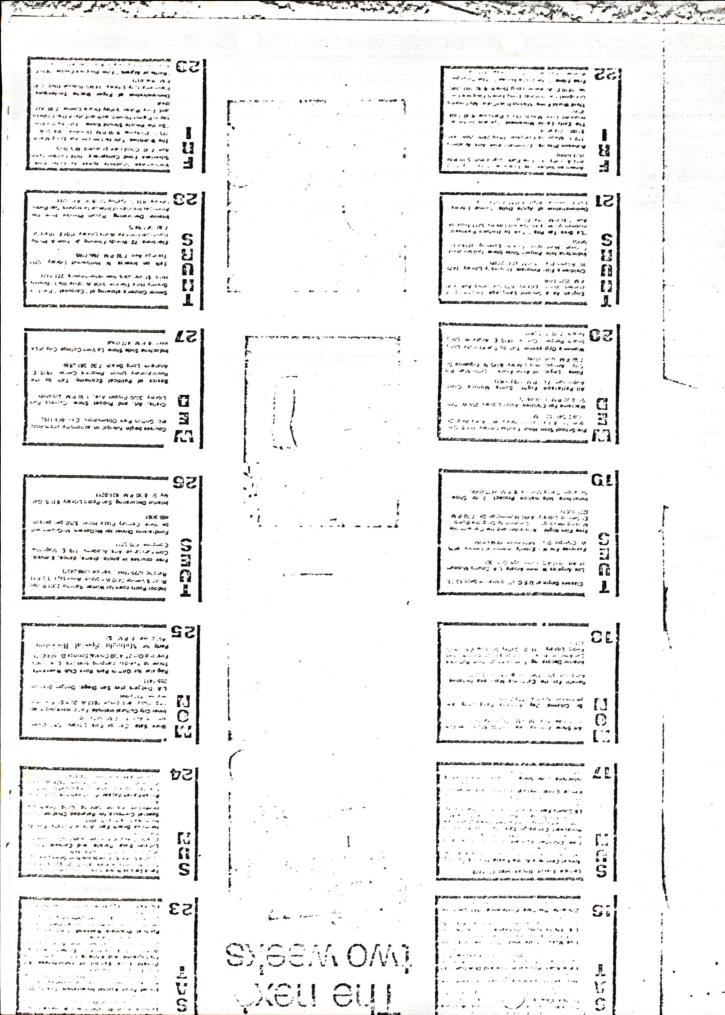
THE PENTAGON PAPER 125 W. 4th St. Suite 612

Published: Borockly during the trial, trouvekly during the postponenions.

The paper intends to continue covering issues caused in the Pentagon Papers tend and material from the Jentagon Papers During the proto-moment, there will be more emphasis on the war, the Indochura Peice Campaign, and the elections

Staff, Dobling Richtel, Jussin Bochmel, Paul Bocker, Jim Berland: Neal Goldberg Bob Gottlich, Doblins Krow, J.L., Ror Lieberman, Harold Meckoritz, Jonathan Olem Irene, W., Loe, Verinberg,

Credits. Postry Tryin Victimin Velecines Against the War, WINNISG HEARTS AND MINIS, and Institution Model Education Project, WE TROMISE Over ANOTHER Gradues from LISS, La Raza, Philip Lines Griffith, Committee for the Defense of the Foreign Born.



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concription of workers, and difficulties created by the Thieu administration for the tubber processing militaria Start of a grow after a figure to metauthab social off of out fittings and the contraction of the contractio graph is the second party of the set of the second of the preduction had dropped some set. In Jone and but alone, user 200 entertrives in Saw a and are authorized to the appropriate for the set of the been steadily determing in recent months. By the each of July 1972, in turning anothering has distincted to the control at 197 and the control red gmontas emerical Anno. 171, 20A (mentas) detroit, gener A need notatable. In terminal detroit on mentane and self-indicate mentane recent of the beautiful detroit on mentane recent of the page of the property of the page of the pa SAICON RECIME S FCOMONY DE TERIORATING

the Forth Victoriness Catholic church and buildings were decreasely on the attack. The Plant Diem Diocese is the main senter of Day Vesterr, Many Cathorlice acrees ided or sounded and many of the backes sechaged brother will in which the second by the contract of the work of the Medical behavior of the second o layest in North Verteam, on Award 20 for the third time since July 7, 11ee coll age Circlean bows Agenty, Hamer Aug. 22) - U.S. planes bombed the Plat Diem Cathedral, PHAT DIEM CATHEDR AL BOMBED ACAIN

MOUTH VICTURIAL escalation of the air war, 10 B-52s and 398 planes of all types have been shot down over brought down over the Vield I tolt area near the Demultarized None. Since Vixon's recent Vietnam News Agency, Hanou, Aug. 21) - At 4 On A M on August 21 one U.S. B 52 was NAON TOHRSZER HOT

SMIN

SIZICE

SAIGON PRESS STRIKE

DANASCARRININ ATTACKED

CRACK DOWN ON SAICON PPESS

Continued on t me 3

each individual battalion. Murines, U.S. advisers are now assigned to South Vietnain. In the case of the Sagon ie-introduced in all the mulitary regions of American ground aditions have been and on board ships of the Sevenih . leet. Most of them are in the Navy c Aur Foice, operating out of bases in Th dand U.S. servicemen in the war to 15t, 000. fetot becesson ted banovied Vieiting lo q i-tilud sucantilunis a smit smas U.S. ground combat unu was being anhdrawn from letteram. But a the Lan week, it was reported that the last

it hoth it's to the PLA:

me and t used the city of the Sune This was

be and noticed a slowed off . (15 w. A. mentor & time 2, cont. A. a will assisted it

But now ballions and journalists of wine of the papers were fined or given gal

has Out, Out may wind thought assembly and the non-tild life source. Lead to the law out of the Firements of auticine the boards respirement it have at thered vitexast but the country and the second hand even second and the second to the second second

(Contract of a Arriva, South Victoria, Aug. 23) - The Theu administration

balt-arists, from first carrying, articles deemed to be "detrimental to the national sect mfy

e is to solitory to be virginal moses, so the month between the most and mother moses, but not become in the solitory and because and solitory and the most become and an elementary of the most because of the most b

by even wegeweinment edding and pourtoure it requires each parer to pos 20 demand I sat Three resumd the decree, which has been demonated as to constitute and

ear upage a closed down Aismet 22 and 23 to protest Thron's August 5 Press De ree resolution of the Association of Publishers of Sustain dailing, 17 of Sustain's 63 daily

(Liberatin n Picca Aguncy, South Vietnam, Aug 23) y Acting on an Augus 18

and of seconded on the section their barrat received no technology to hear

Chinama daries s of otto cis, piors, and technicians

PERSONNEL BUILD-LP conspanie keep the Thieu government trom

has had to "re-Americante" if in or let to Fat from Vietnamizing" the war, Vixon in the war sone.

However, that time tail PLVF completely through off by all PLVF of officials all abril of the year.

Self-from "Vertramerative" the war, broad

בו לביבול ל ובינושות מוום בטטעו שטט מונכושוו 20001 COC O. nedl 225, 5786 01 2791 bim mid-19-12 to have less than 6.000 the the puritability sought to give the uppression that U.S. involvement by the 19-12 to have being a the war from the legit in the 19-12 to have sought to the puritability sought to give the properties of the puritability of the pu For three and a half years, Vixon has

Armed Forces (PLAF) hogen their general four months unce the Peoples I therattere how Aixon has extracted the war in the Thu is but one dramatic example of

שנכם בניטחו ונוב מהב טל ניסרוכנו ניפוב לשו 20217 1 4005 4 AT) 14 2474) 40 ted visiting 2,11 and 129th Ob all to 100 to

anole vito ant no edmod to anot 000,08 baggorb Quart Tin City as it stood when Captured by the PLAE 121 May. Since then the U.S. has Continued on page 2

oftensive in South Vieinam. ישו לפח ל בחיוונים.

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uos ano COMESCEDED LE MATERIALISME

Existing and engineering the contraction of the con THE THE CONTRACT OF FREE CONTRACTOR WITH A SECRETARIAN CONTRACTOR

The Sugar arms surered a region Romen 000104

miles to the north. While then attention

ma desparate battle in Quang fit e me 100

Dest units in the Saigon army are tied down

the Saigon army controled area of

Highway I below Da Nang From Oue Son,

second most populated city. It also defended an important sector n of strategic

approaches to Da Nang, South Vistnam's was a military base detending the wurhern

importance to the Sugan losses. Que Son

The Que Son Villes was of restricted

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the military storings areas be impire to the Sagon forces were destroyed. It was a Leonard taken by the PLAF, therefore it is also the remains of making the relations of the relations of the relations of the relations.

destroyed or eaptured by the PLAF. All en an er id eine ber einest gem gnibulbit ang me gening frelline ugtal. 72 se llem in an id eine id ber ing ber in be in ber in

three-day battie, Staty mu tan vehicles,

Seigon troppe were put o'n e' action in the

however, on Aug. 22 reported i'at 3,000 The ALF's Liberation Press Agency, few details of the battle and have not disclosed the dimensions of the datas. Sayon officials, he caid, have given out

agradeess of a leg bags in supplier freat

shandoning attillety, tanes and other

"the fight on O to 5 to the state of the Sach of the S

troops were "hally mitale, and said that

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Physics gain for the Pl 14 ciner they the People's Liberation timed forces of the sent co to druos a sel torusib bas withack last week when the Dur Son ralles

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שקושונות בנוכושו והניבר

Quang Nam province.

ainstidedra

This new blow came at a time when the

nogies

# ELLUON BETBACK ODR SAIGOR

continued from page 1

was focused on Chang In, they were attached from the rear or me Que Son valles.

Trisps of the Sanon 2nd Disson which were apposed to be awarden manner in Orang Its were seen and earliest the Son to try to stem the PLM artises there. According to Trieranon Press Algerey, 2000 of them were suifely, woulded see captured. The U.S. mess reported at a least one reyment, standard data and Ress suffered see many contained in the right that it was trend and present or or.

#### ANTIN MITTALE

The article of the North Control of Social arms by surprised during and the sense of in the subsect A plaint at the subsect of a training to ship had fulfer to the PLAT. But Surprised considered the situation to be under control.

In early August, the Pt At stepped on attacks on positions our long the voltex. Then on the month of Am. 17, built and regional goethers together with regular PLAF army forces mounted a coordinated surprise attack on all Sugrey motions units in the valley, from the motionarmy arms to the Tendeurs Land he all motion frice.

In the three-day buttle that followed, Sagon positions including the DaNa squar base were heavy shifted. On Aug. 19, despite U.S. B-52 raids the PLAF took the district town and won control of the entire Que Son valley.

The loss of the Que Son sofley shatters government claims that the Saig in amy has been restratized unce its either defeats in April and May Most of these claims are based on the manges of the command structure modely. These is the community Region—the same region where the Que Son safley is liveated. Fifter the rail of Claing Tri province, This is found including reputed to be the our informander in the Saigon army. Truon [8] in province in the Saigon army. Truon [8] in province was intended to restore document was intended to restore document improve the image of the army and inspire considence in its leafestship.

With the rout at Que Son and the defeats being suffered in Quing Tru, it is clear that the new "street rin" or the Succentary is nothing more than a programada campaign. In the words of one government official, despite U.S. air support, Sazon troops at Que Son "didn't carry out their



PLAF STRENGT ISHOWN

The minor victory soured by the rI AI in the Grie S in sellow disconstraints captive with Nixon's claime that I S, bombing and attempts to cut off singline flave prisods crippled the theration to roes. However, the characteristic area in white House switchesmen and ref e.f. S piecs. The evidence usually given is the "do-line" of PLAF activity over the past two and a half months.

In fact, while there have not been any MAR Bulletin - page 2

and the



Include overtun by PeAF or the my Tri province in May, Somor attacks on firebases near Da Nang and Hue have been taxon; place in recent weeks.

Sucrem News Agreet

dramatic hattles during this period, there have been important changes on the battleteld which have greatly weakened the Sup in arms and strengthened the postion of the PLAI.

The two-month-old Saigon recontentierance into Ouing Tit province is turning out to be an unparalleled disester for the Saigon army. These has thrown all of his eline thoops-the marines, parationeres and the list Indantry Division-into the battle. All three have taken extremely heavy cancilines According to Liberation Press Agricy in the two days Aug 21-22 alone. Tool Saigon troops were put out of action in Ouing Tit proofine. Already the parationers who took terrible casualties in Ouing Tit have been puried back from the footi.

The battle in Quang Tri is clearly a decising one. But the key question which is being decided in the is not who controlls the citable. In Quang Tri city, but whether there will be any thing art of one quarter of

the de takens in the Saigon army, ROADS & SUPPLIES HIT

With School's top troops field down in the north cocal and regional enoughs this month to fined actions across the country aimed at cutting roads, and destroying supposes the Sugeon area, Maint aimmod dump, and storage areas have been blown up near Placka in the Central Friphands, and in Long Birth, Laikhe and Birth Hoalbasset and Dien Hoalbasset and Dien Hoalbasset.

At the same time PLAF forces have taken control of areas on or near Highway 4. Binking Stonen with the Mekong Detra Highway 1. Connecting Sugon with the Camb dian capital of Phinom Penh, and Highway 15. Individual of Phinom Penh, and Highway 15. Individual of Phinom Penh, and Highway 16. Individual Highway 17. Individual Highway 17. Individual Highway 18. Individua

In a strategy of disrupting and letto up supplies may sensitive binder the filling abuity of the Sugon army. In choosing this strategy the PLAF is striking at one of the weak poi is of the government army, which imputs all its weapons, and otten food and even drinking water. All this is brought to the units by road or helicopter and must be kept in large, vulnerable storage reas.

By contrast, Australian fournal at Wilfred Burchett recently reported that the main source of supply for the PLAF a now captured U.S. equipment.

As a result of these tactics, the Sair in army has been greatly weakened in the plat two monitors. Under these circulasteness, the recent PUAF with words the On-Sair valley does not come as a silipprise, it appears as part of a consistent strategy of the PLAF to the down government froors, cut off their supplies, and functionally toops and expand the NLF-controlled territory.

It is only the claims of tild Nixin Administration about the weakness of the PLAF and the success of U.S. hembing that make events such as the fiel of Que Son so difficult to understand.

# U.S. Oil Companies Lose Faith in in Vietnamization

American oil companies are apparently not buying Nixon's assurances that the Victoamization program is "going well," and that the PLAF offensive has been thwarted.

By late May, with the offensive in its second month, it become evident that the oil companies were no longer interested in buddon for off-hore oil leases in South Vietnam. As a result, ma noise which the U.S. embayy in Sair in said "reflected realizm," the Thora e overnment cancelled bridging for these off-thore oil rights.

A year ago, oil experts agreed that for producing low-pollution, low-uniphur oil The oil companies are always on the lookout for now tieds, therefore the lookout for now tieds, therefore the struction can ordy be due to the innectanties of the point, also turn on the North Vietnam. As the June 15 Practic, Basin. Reports, points, out, "the international oil companies are not about to anost militims of delars in exploration repipiement which model be destroyed at aims, time, by incorporation of a continuous preprint."

There is a further factor in their current relictance, based on a kenativity to public opinion in the US. In an electional circleted in June 1971, the column Garcheamal around for holding efficient South South

"give support to absurd charges that the South 3.5 Sur war is being prolonged to proverse profits of U.S. oil companies."

The Journal pointed out: "This is a mural sine charged with deep emotion, it involves someon that American soldiers are help asked to risk their lives for a crais a mineral cause. The very thought of it is possibility recently aroused Mothers for Peace to flood Congress with thousands of protest letters."

A year earlier, in June 1970, however, the ed industry was not so custions about worden, its hopes that U.S. hombs and dollars would secure new oil reserves oil slote Vietnam. The industry journal Previous Exempter wrote: that explication of Southeast Avan oil deposited on the outcome of the Vietnam was: "If and when she U.S. wins its objectives three ..., this would be one of the Europe homes in the industry's fusion, it all depends on the Vietnam was, for long it takes to not five Vietnam was, for long it takes to not five Vietnam was, for long it takes to not the published and how well the job is done

Thus, we that no one sets the idea that the 1.5 in in Maetoum for a "mass commercial cause," the oil commones at this time peter to but for oil in nearby Camb du and Indonesia areas which at this time are compilered politically more table.

This action his such grant community as Standard, Oil, Sew Jersey, Una m. Oil, Jersey, Monda, A Guid, country at a same

A STATE OF THE STA

when both the Nixon and Thies administrations are disperately trying to attract foreign investment in a South Vietnam. Last August, Thieu i iterated a series of investment laws which created highly preteronish conditions for foreign investors, such as up to 5 years moratorium on taxes and the situal guarantee of a monopoly evertain wiected industries.

Despite these offers, Nixon and Thierahave found relatisely few investion. Winthe PLAF offersive this sping, the prospect of foreign investment hisbecome even more black.

fromally, it appears that the Thies government had special topes if at their 1 companies, would strendate tently investment. According to a publication: Them's potentient snoowed Vietna-Council on Lorent Pelatrons, possession the oil industry would serve an "illopening wedle for more foreignmentation of Victiman's other potential leading industries, such as fiding, you maning, timber and cement."

In taking this action, of course, the of companies are only acting on the house, rational way acting to the house rational way increased. Here we may the prospects for the There government are shally, and that a future in apportunities, and that a future in apportunities of some would be only removed to the processing of the benefit and months of the benefit and months of the benefit and months.

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The testil of the number building has been bombargment and she'll be on a level which earniers all rost ie, ride in the butter a matter base in the total Che Mich trail m Lans was un le come toe most intense commission to assert tim has been au ganed in battlettents such as An Lis and Quine Toron Sanda Santa an

FROM HIROSHMA TO OU AND TRE

The scale of hombacdment in these areas is now communitie to the use of to real major werenes the Headums atom blist. Or example, was equivalent to 20,000 tons of conventional explosives. In 40 days, 5% of time of conventional explaines were dispred on Quang Tri City.

This terocious bomining has been unleaded against North Vietram as well Hidden behind the press awarage of "laser guided bombs" aimed a bridges is the day to-day intensity of the bombing of cities and villages. Residential areas of Haiphong have been carret bombed by B-52s, and populated sections of Hanos have been repeatedly attacked. Of North Vietnam's 23 provinces. 18 have been consistently bombed in the past four months. The provincial capitals of all 18 have been destroyed

And, according to the recent report of international investigating team, the U.S. is deliberately borning dikes and dams in North Viernam-a step which many observers believe is designed to trigger massive flooding when the heavy rains come later in the fail

AIR POWER NOT DECISIVE

Despite this unprecedented level of fuepower however. Six a bas not really been able to after the basic mulitary situation. The PLAF ottenue continues to develop and the counter-offensive by the Saigon army around at recovering the territory lost to the LLAF in carls Mas has in itself hecome a major deteat for Saigon, (see story, page 1), for example, while the bombardment was going on in Quang Tri City, heavy fichting was taking place on the ground between the PLAF and the Saigran units, resulting in very heavy lones to the Samon soldiers. According to an Associated Press report on August 22, "At a conservative estimate, the South Vietnamese marines have taken more than (ON) casualties in twenty five days ... at most the marines say, the enemy mucht number 600 men

As a recent which in the Hanni newspaper Man Dan pointed out "In a war, the air torce cannot decide the outcome of the lighting on the ground Consequently, it cannot decide the tinal nctory on the batticticld." Nix n's escalation of the air and naval war is a desparation move arrived at he jause other options, such is the re-introduction of American ground triaries, are politically untract to But the authorize of the furning will be determined not by this airpower, but by the military and political structs being wared by the PLAF against the Third regime. 7

#### War Bulletin

The War Bulliton at a 4 rice tate reulady published every other week lim the purpose of supplying news and analysis about the worse fratewising trulrates are \$11/1/800. The rost of a inhomption through hosenther is 55 The staff of the Was Bulletin metades an Amitin But Parties Hairning Care tt Sicker Strinleimer, Ands Tember, and Peter Laubar



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ile U.S. is the most Jestimetrie in history. end ment us detennes have nimen to be sery effective in limiting the number of

The beautest bambing has been the so-called "carper pondong" by D.52s. Lynically, a flight of there B.52s drops 75 to 90 tons of borries, distributed events within a one half mile wide by one and a half me of one "target box."

Secreting to calculations by Edmind man, in an article in Natural & Reside. contact of and to what a control or male errective against civilians or troops caught withe open apost 25 on the total land area within the "hos" is lethal. But even with very simple shelter, such as small I wholes, the fethal area within the target bus weeps to every 2.5. And it mainmentary burkers are built, far weaker than those at An Loc or Ocane In. the lethal eacrops to only p . Formies, if coverer wir wet straw matting, are also very et eathe protection assand napalm.

Ber Plaf : "Les and civilians of the

NIF areas are taking such measures to protect themselves in North Victnam. villages and cities have a wilder read system er sheaters and ment to fil M heavy mas are emplaced in burkers, deep by es, or caves, where it takes adjust by to know them out. An exemple of this effect senes was seen at And as where as a refur a to an AP report, B-52s dropped 1700 tons bombs on an eicht mile tront, but When the raids were over, the enemy guiss opened tire again." 7.5

# 3. 3

Ly Van Sau, spokesman for the massional Keyotu'sunary Consertament of South Vietnam, saif at a pre-s conference in Paris on August 22 that U.S. tumors of a pending Victram settlement were "entirely take" "Every evidence "entirely take." "Every evidence indicates," he said, "that the American indicates. administration is only seeking to foct public opinion to serve as election campaign needs."

The Vietnamese denial of progress toward a settlement was made in the mulst of speculations that there had been a breakthrough in the Paris Peace Tains and that Henry Kinancer's highly publicized trip to Sair in was intended to inform Nguyen Van Thieu that he would have to resign and make way for a coalition government in Scith Vietnam Talk of Knunger's trip was encouraged by the fact that the Presidential advise: vent tie Samon after a private meetine in Paris with North Vietnamese negotiator Le Du: Tho.

Press speculations about a possible her determinen in Paris have been based on Write theme leaks and the fact of Element's openie visit to Saizon, and not on evidence of any concrete new

deset nments in the negotiations thems wes, in that, the serv See 3.5 instalch which carried speculations that Taxeu may be custed, also reported other further "that Mr. Kissinger was sent to tel President Thick that his secret tables with Mr. Tho were deadlocked and to ressure him that the Nixon Administration would continue its bombing and other support of the Saigon Lamer seren

While administration officials have incouraged optimism about the negotiations, the whole House refused to comment on the content of Kissinger's talks with Thieu. And Kissinger said on his access in Samon: "I really won't talk - here is no sense in asking me quest ins.

Short after Kissinger returned to Wash inton, Secretary of State Rogers encouraged further speculation, saying that I e was "continued" that a negotiated ettie neut mi iliz war wield be achieved either before or shortly after the November elections. Rocer's statement was quickly disclaimed by the White House, which said that he "was expressing the hope of the Administration for an early

ettlement ... not musing a pr diction nured or may be enter and exide ge that may or may not have occur ed." An aid that Administration spokesmen Rogers still stood on the "sahr a e" of his remarks. (And Nixon housels sail at his last press conference. July 2 that prospects for a nevotiated settlement were getter now than ever pefore.)

The Nixon Administration or miently wants it both ways they do not went to be accused of raising false hopes by saying specifically when the war will end, but iney hope to win electoral su port by leaking stories that a nee-stated se tlement of the war is finally near

#### NO NEW DEVELOPMEN'S INPARIS

North Victoria and the PRC. wweser. have consistently stated that I are have been no new developments at the Peace talks. On July 8, PRG spikesmar Nguyen thank Le saul the President Ni and "all seeks a military victory," and that "he's not seeking to negotiate." On A ignst 18, the major Hann paper hun ibar and that the U.S. "is claiming that the prospects are resent at the Paris Peace falks that the war may be ended we'l before largary 10. 1973, or, more recently, that the war is thely to end before Oather 1972.

No progress can be made, the piper sail. as long as Noon continues his "Vietnamization" policy, continues the mining and bombing of North Vietnam, and continues to support the earne of Seuven Van Thien There is roundication. Whan Dan said, that See in hes changed his position on any of these turdamental mues of the war I at I mport, the part concluded, the Victories people continue and step up their tah, until the U.S. agrees to their is an demands.

However, this is marely a decept on."

These points for merolation were test put forward by the PRt, in Jul. 1971 in their Seven Pount Per Propos | De ede changes in the Auf stur am, the fitt, has never changed ats have points finity by dealing with the a had, domain a, and toll by trips around the world, on S somes h a negotiated settlement of the ear I com this perspective, it is clear that Vision as I Kesunger are missing much ado alous nothing

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# Vietnam Vet Faces Mander Charge

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I was after catte or a ter mare to the area resented to the Arms . Cemmai In-Area tenested testle Acids as remina and Sections on Discount that they were the intended success and char H. Is. Thous Smit was respect to for South was tern al rich territorial and have desired murder, attempted number, and resisting arrest.

mg arrest.
When arrested Smith had a greenale When arrested South had a grounder nor his resident. Many setter most south name have proposed our treat reason and term compromised four form on macountain more fasts mode by a Lipinness laborators. Large Stocking that the mark to so in the problem of the proposed fast and make the south factors of the proposed form of the second material is association to be to be second for the second make and the proposed form the problems of the only make of the south make of containte estatetre agreeat sente

The rest of the case against smith is based on construction all existence. This evidence shows has alle that Sports distinct the are the Area, and his comdistinct the weet to Acres, and miscom-manding officers. He had stated that thes were racted and that he would "got even" with those He had allowed aroun-"fragging" and had access to fragmentation grenaries.

The different less ribes the moderners

"mredibis." "meredible," at story that, "percupa for percent of the lower entired racks have the war, the Army and their Cat's, teel fragging is the good for them, and fragging is the good for them, and likewise have access to fragmentation grenades."

#### Why Billy Dean?

Why Billy Dean?

Bills Dean Smith was born tenth in a family of task e-shold in Smith 1977, the family of task e-shold in 1978, and After graduating high whold in 1971, smith worked as a maximist a wise of his direct and a car sale-man. In 1966, he reserved his druft note: He was opposed to the war and win ted to resist in duction. His family, it do not want burn to go to in He-specing his family as whose in what time the server. In October 1970, he went to her were the nam, where he was a gred to the wine-

mand of Captain 1000.

Smith did not want to fight the Victoriannese. He had written home that.

"They ain't doing nothing over here but killing, killing." At the time of the

terrory mesoner, to any torsa-ture relates 127 de terror commenta-mentations and a stronger to to to total commentation of the the carty all the boots are just the

#### Fragging

The South total will be the first "It takens that ever the top of In an entiring greature arrays arrays has been a second problem for the Array La. 1906, the 15c at pain of December special L26 fraganes. In 1976, the first measured 15c 27f consequence from the measured for 27f consequence disable unit for measured for 15c to assert them the results of 15c 1. The measured from the problem is so somether that the Array most lock the theorem is so that the Array most lock the theorem of soldiers after they have the combot of soldiers after they have the combot of soldiers after they leave the combat

The Associated Senth has been september 24 has reached from a close of a close the attended to the control of the stockade at horse that California. The delivery with a result of Provider No. 10 toking for the atmospheric option of the atmospheric than the most California described as a close of 12 Association of the atmospheric option of the nature of the atmospheric options as posterior of a four-nature of contrary. nations evaluate is postrated to a four-cion apartment and has full contaction rights. After less thou one day in the stockade. Calles's release and con-inferious to quarters was enforced by President Nixon. The defense request states. If the act in of the Proceedings of behalf of Er. Calles is in a clear procedent for the release of Private State, and other presidents in similar circumstances, if can only remove in dear favoration of officers over enlisted men of white one balls. dear invention of oils era over embrea men of whites over blacks, of consisted marders of Victianuese over presum oils innocent. G.U.s. accused on flims

innocent G.L's accused on flires exidence of the murder of their others. The transet was decised. Beacher General Liwrence William renied that the issues in Pot South's case are in no axi similar to the issues in Destenant Calles a case, and, "The President's right to take act in in cases for ught under the Uniform Code of Military Institute is a discretionary nower which President Nixon well exercise only in the most extraordinary circums'ances. miet extra udinare circumstante

#### A Military Trial

Under the existing culitary regulations, the Consening Authority the commanding General at Fort Ord and the Chief Prosecutorial Officers decides upon the charges. The Conharte granter He grant the Military hade to be in the considerate the treat . ... deliterates at section and the rate The diffusions on Land to well the rays. The 2008 to trade its of agong others, and the defense can but mate alls craftenia and decreasions, no accord the dyten a removeful of at the case be chosen by but

troughted of a through bechissen by his tree. The Arms region of the first and the first are because of more resonant intends to bring out during the trial flow is the institute of the American military indicatal system. More soft the resides more than the freedom in the American Theorem is a flow of the first of the inch for in the American flow the first of the in South is find in with all and in the first of the in South is find in with all and in the first of the in South is find in with all and in the first of the intended to the first own that the firs all of these prostures



## Defense Department Tampers with Nature

Few perce in the Department of Defense talk about the weather, and even lower me willing to talk around the use of wester in peoplessual warfare Senator Classorne Poll of the Senate Sendor Course Pell of the Senare Foreign Relations Committee has re ently been holding a series of hearings on the subject. Pell's commitheatings on the subsect. Pell's commit-tion attended to constantiate or large-bests of cyclence that the Universitates makes rain ever hide-lima for indicate particles. For computer found, the Detense Denirment unwilling to answer ary direct questions, due to in-structions to remain silent about rain-

main: mern over the use of as modification techniques in Indochina his less raised by at the references in the practice rescaled by the Fedagon Paiers. The reported operations dide back at least to PMS, when the Joint Chiefe of Staff asked for the "archoristics regard to implement "authorisative regimed to imiliament their operational phase of weather medication process receivable tested and exalt atel in some area." The area referred to is have The was seen as a program to leading trafficulties undistration require." These quotes are from the Gracel edition of the Festacon Paiers, voluce four, page 421. We also find, on page 146, a memo experently written by Jin T. M. Nouchton which lists among its recommendations that the military "couse interduting tains in

Senator Pell Injuries that weather war Senator Pell believes that weather was has become a reality, and in antana prat US chood-seeding produce) the flowing which killed thousinds of Neth Victionies. List year. In 1971, columnist dark Arderson reported on Air Formal chindren in resonness with a second test clinic services in the service pro-ference assertedly caused fording con-ditions along the trails, making them impossable. This could be disast, my to impassable." This could be create this co an area such as Indochina, which releas beavily usen subsistence activalnice for er surrent

es survival.

Even more dangerous is the possibility that rainmaking coall be used together with the hop bing of the dikes in North Vietnam. The Vietnam namese have shown their understanding of ecology by reclaiming that land and taming the rivers through their exten-

taming the rivers through their extensive dike swsem. Now the must face American geombosical warfare? Weather modification involves directly altering the earth's ecologic in in asternet to modifice decided modification that the science is at such a years stars that the science is at such a years stars that the science is at such a years stars that the science is at such a years. the science is at such a voorz star that undestred results are not as alkely. Changing any aspect of the planets weather system altects the system as a whole. Concerned rivilian scientists are afraid that the midrars may be unleashing a series of uncontrollable forces on the world when it experiments

with geophysical wariare.

Leslie Gelh who directed the Pen-tagon Parers study, ungerscored the tagon Pavers study, undersome the threat of weather warfare when he stated that, "Like chemical and hological weatens, it deals in an area that would become essentially uncon-trollable."

When asked about these reports the Pentagon will only say that the an wers are classified. The military through its elusiveness and serresy, appears to at-tach great strategic importance to weather modification as a weation

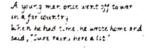
This was further emphasized at the recent International Environmental This was further emphasized at the recent International Environmental Conference in Stockholm. The nation of the world proposed a resolution of ling for the complete disclosure in all weather medification information Only the United States opposed this Leutenant Colonel John Nolan, the Defense Department representative stated that the US is doing motivary weather medification. He admitted that the military uses of weather medification. He admitted that the military uses of weather modification might procease actuation in which the US would not inform other countries of the effects which cair programs may hove on their climates. Civilian meteorologic to are already that American military programs are wrough thesitening the spirit of international cooperation, which has prevailed in weather research. While Senator Pell continuous to work for a treaty banning greadyswall warfare the

treaty baconing geophysical warfare the Defense Department is exploring all the

The Rand Computation is currently time trains strengered in carriers and setting up computerized weather and climate meddicated medels of the en-tire world. The inditars believes in these models and says that it now has even statistically verified that it is possible to discern changes in the climate as simulated has a numero d model. The Defense Department is known to be linking into the provide militars on a id-burer anes, energy key, and chen all afterations of the armisonmers. The more man have come where on he events of 100 longer he considered as "acts of G d."

-

APO 15225



But his mother reading between the lines Wrote, "we're quite concerned Tell us west it's really like!

And the young non responded, how, you ought to me trefunny mankeys!

To which the mother reglied . Don't hold back, how is it?

And the young man wrote, The remets here are spectacular.

In her rest letter the mether turote, Son we want you to tell us everything

So the rest time in write. Total tkilled 1 mon. Hesterday theiped drop majatim on women and children. Tomorrow we are occup to use

And the father wrote, Please win't write such depressing letters four cuporiting your mother

So, after a while, the young mun wrote, him rains a be here ... larry fottmann



# EPT.8-21, 1972

#### New Evidence Attacks On Dikes Ara Deliberate

New evidence of the sectionistic and deliberate bombing of day in North Vietram has recently been bresented by emeranter Yes I. et l'acous has just returned from a fall timbers from to North Vietram where he travelled as an invest, there for the interrupt of Commission for Ing is not 1 5 Mar Crimes in Inductional III's Undings were published in the Freigh reasonager Le Monde

Evidence of different bombing. Evidence of GI verare morning. Lacoste pointed out, in he seen higher the general nation of both high during the last three months and in the native of specific targets which have been het particularly the highly sufnerable. locks and siusce gates

Lacoste concentrate2 his investigation in the Red River Delt , where a majority of North Vietnam's prair miles Well ever half (58 out o 954 of the Cite locations hombed by the La between

April and July are in this are.

The Novan administration has stained that it dilles are being homed it is only "accidentally," when bonne mass the targets for which they were intended. If this were so, Lacoute says, one could this were to. Lacoust says, one could expect to find "acc ferring" brushed dikes throughout the Red 6 or Delta-

especially near "military" targets.
Instead, Lacoste to and the bombing of dikes his beer alroat totally concentrated in the eastern half of the delta = 54 of the 5 known ms were m this region (See min )

WHY IN THE EAST!

This eastern pint of the delta, compised of the product Nam Dieh, Ninh Binh, and Thin I than I the deep of of Nam Sach, is provide the area most break in this "been Differ that had been break in the wife or Differ that their Been than the break in the season that had been through wast sine chosen the been through wast sine chosen through wast sine chosen through wast sine chosen through the been through the bearth through the been through the been through the been through t much of a below the water level of the rivers during the ratty season. A major continued on piece 2

# Cpens Presidential Campaign MINON PLEDGES CONTINUED

President Norm has opened his reglection campaign by realterning his Account to containing the war in Amount to containing the war in Amount. At the cost consolit is pro-centerance on August 14, he said that the numbers or North Metaum would be until the Provisional Res. Internaty Government of South Vernam and the Democratic Republic of Victoria (North Victoria) Loopt I. S. terr s for a settlement on the A' 3f

officials there is proceed in the recotuting front which is subscintial, Neven said. "there will be no rede man of the bombug of North Vietnam and there will be no litting of the mining "When asked whether the bombing would still continue a vest from new, Nixon wid are not going to put any limitation on their the L.S. certains in the are would don't Societiesly. Neven ruled out a bombing half before the elections

While he committed the U.S. Ar Force

and New to enformed benching and shelfing of Indoctina, Nixon claimed to have "come a long way" to ward ending the war "We have reduced our casualties the wire Two have recorded our casuaments to the percent, The said. Two have withdrawn over failt a million men from the brice that we found that were there, we have completely trushed the American ground combat role Only wighters with writing in Vietnam in the tur ee "

What Sman tailed to mention was that the number of U.S. troops a matted to the war zone out stationed outside South Vietnam has usen to more than 180,000 and that the level of U.S. hombing is the hebest in the history of the war - and the lin, est in the history of warfare. Not only as the number of U.S. planes involved in the burning of Indochina mores of the front 1,500, for the 1.5 has corned out more and more saturation ho, our with B-52's.

No an also failed to ment on that the

war has not wound down for the Indochinese peorie In fact, even betore the carrent escaution, the monthly rate of culture killed, wounded, or made hameless in the war had osen from 65.00 per month under Johnson to 130,000 per month under Nixon The sast response or these are the result of U.S. bombing and shelling. And the content bombing of North and South Viernam, which includes saturation home ne of other and other populated areas, is producing even more endian .35011 \*104

By reducing U.S. ground troops and U.S. casualties, Nixon had hoped to eliminate the war as an election issue by 1972. But despite his efforts, it has become the number one issue in the camping. And at a time when the majority of the American people are hoping for peace. Nixon has offered them only a declaration of continued war



### NEWS

#### CHINESE EXPRESS SCHOOPT FOR VIETNAM

Obstrain News Agen's, Harrot, Sept. 3). A message sent by Man Tseating and other Chinese leaders to North Ventium last week indicated continued strong Clinese support for the North. The restearch, sent on the 27th anniversacy of the founding of support for the North. The criteria st, with on the 27th anniversary of the founding of the Democratic Repuid, of Vietnam, ran contrary to recent rumors in the U.S. pieca of a disline in Clothole without for North Vetnam. The support and about the Vietnamese people's wire a loss 15S agree contrart for national soft than its abounder international soft in oils 15S agree contrart and in part. This matter what hardships and disapose the Vetnamese people may still face in the war against U.S. agrees it is and for national silvation, the Clone e-people will remove no your side and give allowed support and assistance to your pist struggle."

72 U.S. PLANES SHOT DOWN OVER NORTH VIETNAM IN AUGUST

Victiam News Acre's Marca, Aug. 313 in the month of August amed forces in North Victiam that coon 72.05, planes, Street thou in the law half at the courth Two B C's were the dear-over kind I talk are, etc. in Any 21 and the other out Aug. 31. Hence of the order to bushers have been deared over the botth since. Nation's excitation of the ore was in April, Easth U.S. planes have been downed over North Vietnam to to.

30,000 SARON TRO RS PUT OUT OF ACTION IN AUGUST

Education Poss Assay, South Victoria, Ass. 33 Earlie month of Assaul, the People's Education A med Forces in South Victorian killed, wounded, or captured

### ERIEFS

10,000. Sugan troops In the same period, the liberation forces shot down or destro ed on the eround 200 errorate, captured or wrecked 400 military vehicles, 100 cannot, and 20 wardups. All told, since the beginning of the offensive in April, the have pit out of a ten more than 250,000 Section troops, and sected or design ed 1500 progratt, 5,800 military vehicles, 1,900 artiflery pieces, 330 was vehicles and 28 i fuel, amminutein, and supply depots

#### REFU LES DESOUNCE THIEU REGIME

REFU (EES DE DEDITE MET EITHER RESSET IN (Il there to in Press Agrans, South Vietnam, hept. 3). 2,500 people from a concentration camp in Ba Ria prosince sout a letter to Naisven Van Thieu demanding that the Novan govern rent supply them with rice and healting materials and let them return to their native place. The letter demonates the Third regime for herding the people into the concer training and then returned to supply them with food and housing

#### FOUR FRENCH PRIESTS RELEASED

(Acus, aled Poss, Segen, Aug. 27) From Lench priests who were captured by the People's I don't en Armed Torres in April 1111 Disto in Son's Vietnam's Central Highla (d), have been released One source who saw them and, "From their physical Links and opint. I think they were treated wed. There was no upr of any above." Senior American advisor John Paul Vann, who was recently killed in South Victoria, had canned a city after the priests were captured that two of them had been

# COURT

In the most in part of heath begroon. Sugar thoops we make to a disperse attempt to recomp to thoses to the One. Ser selles I e seller, which street to the coast of plant and the care, was best to the People's I ther more Armed I mestel MI in a three-day hartle that ended on Aug

The Saigon torces deterane Que Son were caucht of cound by the PI M attack The hocest surmore was the emergence of the PL M shage 130 more swell at one of I' ries "They . '4 fig. : stockpoint supplies for some time," one official said, "In it we never saw those one cons is they were would up in der the

"Soon after the North Vietnam ose cons opened then harrise," a Newsarek correspondent reported, "the term of militia defending the sown pulied our as their aminunctain stires blew up around

the PLAN Often word eith South A majorer set es per es and the diwas I siles have sees from the contared Fire and the section from all was, the Viete nose detenters till min

a Short regulars fled, the reporter is a strong reputate field, the reporter and independent to remain an employer to a fill and a factor to the fill the body in

to was the worse milet as determined S) in covery near some list Mis when the North Victorinese investigatible the North Victoriness oversan the New races amuladed

the world known in april her must stone North and I have to the to the man and many mere. Yo early bugon reports claimed less than 200) countries, space at the Salara arms s ner cern bead, narters fold newsmen if at As more 20 2.5(4) Si con troops were "stall

ANOTHER OF ANGTRE

Do the mention was a structurally amb stant area to the second masterial man that are to the second measurement it was the following most protecting the ft was the improvesse may promise a so-sent em expressives to the Nary. South from only a sort to past city. It also Net link a on the just liny he also controls as any to an incomment section of Helt was 1 the main highway running up the was to the Sang, the and Owing Tir.

But we do the book of the Sycatoge operation and because its loss was a the to a member mere troops have bemwette stive occased

Fails 15 reports claimed that seus; ince was light and that harren troops to ar house, r. thes were but with hear griff is and continued to the reports are making many cascalties from enemy gun posters or calcountaines they alleg " Laboration II as Agency has reported that from Auc. 2: to 31 stone, "00 Saron

displaced in the confer arrack.

"His has all the booken's new (burn).

The free campagn," sed one U.S. alves w

But Sagen annet arend anether Quarte In Sucon forces have seen over two months revers to set we Quart In-presence, lost to the FLAF in May. As in Que Sen, Sugar troops and desired tenstance in Quare Tri as I dit But trey went to and themselves stretched out a mix Highway I and subjected to withering PLAI fire.

Saigon loves on this battlefield in the last two months are ineplaceable. The netterent's two best ansarins proteometric two best assessing or manner and the practicipes are in the words in Sea U. S. Froes correspondent "now being chinked up slowly and measurably in an attempt to retake Outing Tection in After softening heavy losses, the trattorpers halt alreads been pulled back from the battlefield

Despite the most intensive U.S. bombing and sheling in the history of the war in Quarg Tri province, the PLAF forces re-appear daily to shell the remaining Sugar troops.

This is what the U.S. military calls the "meatgrider"-and Sagon forces are falling into exactly the same trap in the Que Son valley.

continued on page 4

North Victormere civilians expair, 4 difes in Viucing schape, North Victorm, On July 21, this section of dise was hit by 12 bombs, U.S. planes have on many occasions attacked civil an regain crews such as these with anti-personnel pellot hombs.

#### Nixon Attacks the Dikes

## The Case of Thai Binh Province

bombing of dikes in North Vietnam can be seen in That Binh province, visited by French geographer Yves Lacoste in August. This area, located on the sea coast south of Hambonz has a population of 600,000. It is particularly vulnerable to artacks against its does because it is bounded by water on all udes by the Red River to the south, the Italy River to the north, and by the rea to the cast

Both on the over hanks and along the sea coast, an elaborate network of dikes has been built to hold back the waters. In addition, there is a large claime gate in the coastal dike, focated at Ian, which must be opened during time tides to drain off excess rain water from this enclosed area.

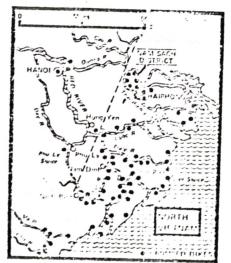
PICE CROP DAMAGED This stuice gate Lamste found, was attacked nine time; between May 24 and July 29. In the first week of August three more attacks timb place threause of these bombings, the gate can my longer be opened, and excess rain water is beginning to be middle in the rice paldes. Since the plants die if they are totally submerful for more than four days, "the rice corp or this area may be considered lost," La oste reports.

The dikes of the Red River and Traly

River which briefer the printing have also been attacked. Here homeomes also appear to be very deliberate, wine hombed portions are at the points where the mers flow through a bend - precisely the prints where the water persone is the highest and the files are most bleck to burst dumme the reasons.

Laurate sum miles biscon's aire in

follows "on the one hand, to cause breaches in the dikes, at the most sufnerable points on the other hand to block the lock (at Lan) and stop the flow of water min the sea. At the least, part of the rice crop will be destroyed . at the worst, if very high flood water occur many villages risk being abruptly submerged if there is a sudden breach n the du es." 



Map thowing biggions of att nh. dikes from And to Sorred Area in white is the Red Roser Deits, alment all struks have been in tie ex tern delts, where the flood danger in the highest. Note also that attacks tend to be at places where the river curses ancer in the highest. Note also that afficies tepa to be a given as a same a

#### Deliberate Bombing of Diles

continued from page 1

breach of the dikes during the rainy season would mean that the entil area. including villages, would be food I with up to see lest or maret.

By contrast, in the western or "high Delta," most vallages are h. a ing low ridges, which are higher than h. water erel of the twers

It the cikes were being hit accidentally by bombs which strayed from n litary targets, then bombed dikes would be scattered throughout the whole dilta . especially in the western delta region near Banot, which has been the target of repeated heavy hombings. But, Lucoste says. "cumously the dikes in 'h area have not been 'an."

Recent attacks on sluice gate, and locks - which must be hit with pir point accuracy to be destroyed - give latther evidence of the deliberate nature of the U.S. bombings Several western ne smen have reprinted the damare done to the Suice gate at Phu Ly, which is a ke, part of a dramage system in a particularly vulnerable area where five mers come together.

Another case in point is the sluic : gate af Lan, which is responsible for the drainage of a large part of That Binh province Attacked 12 times from May to Airgust, this sluice gate is now destroyed. e story p 2 )

It is stretching the limits o the imagination to claim, as Nixon has that such homomys are accidents. One does not have to be a reconnaisance expert to to dire that renewted attacks on a arget that must be hit with pinpoint accuracy in order to be destroyed, could not happen accidentally.

But the Nixon administration has apparently gone even further in its total r'a.k on the water works system . On August 5 Lacoste reports, a plant i hich made materials for repair of the likes came under attack. The Sha May Glio his factors, outside Hanos, was destroyed by a "very person hombardment with 2000 period on #s."

According to Satt Vietnam's Minister d Water Conservancy, between Ame and turust 25, the dde and water works are stacked 3m times Diring emeriter, the discs will be unle the erestest water pressure from the Leny west alls If they do break, it is char that it will be use to Sixon's police systematic bumbardment

2 W 30

On Next I, the forecasts If the second Process of Next are also not proper to examine the Process of Next I was a process of the second Process of Next I was a process of the Process of Next I was a process of the Process of Next I was a process of the Process

was math on the case of diff 1903 anniverse of the color of ground 1904. The different materials is the color of the color

In their receiver on profit or has congruent that in the past of 1.8 government has community past or exist connected by the DRA is the receiver on about the historie power of the that toward letter and has trained from our further were a ten of account for the historiem. Is a result, the suprement and such releases that been temporaries respected.

Mr. Wester stall that the element release is a "less of Artaria" manifold," we rave men will be re-and if this men are used in further elements as an interest includes an energy release to the proposal actions by the administration against the Indichense people."

## Nixon and the Prisoner Issue

Nixon has said prany times that continued U.S presence in Vietnam and continued escalation of the war are necessary to secure the release of the POWs.

On May 8, in appointing the maning of Haiphong harbor, Vivon stated that the prisoners must be reliated as a precondition for U.S. withdrawal from South Vietnam. He repeated this ownton in his Aug. 29 press identification of POW in North Vietnam, or one missing in action not accounted for, there will be an American volunteer force in South Vietnam, or

As a method for obtaining the release of the POWs, School's approach is completely unrealistic Sixon, Kriamps and other Administration officials are well aware that mess y was, presents are released by both six 3 styrer a settler into on other questions has been reached. By demanding that the Proba be researed while the U.S. is continued to bomb. North Victium, Nixon is demanding something which his knows the North Victiumce will never do.

Nixon is using the POWs as an excase to continue the way. He is using the American people's concern for the prisoners to win support for his continued evolutions.

In fact, many of the POWs are now in North Victinum became became became became them there on hombing missions. Since Sixon's escalation of the air war in April, 4/1 U.S. planes have been short down and 43 pilots captured.

pilots captured.
Escalations have not brought the release of a since promote, but have only lengthered the list of captured pilots and prolonged their detention.

#### PRG Peace Plan Includes P.O.W. Release

having has a realizate comportance to gain the reference of the Petha He gained of this very earlie on the basis of the CP and Peace Proposal price and his the CRG in Participant as earlies.

The 7 Point Peas Plan is a comprese



Captured American pilots in North Vietnam nict with Ramsey Clark, former U.S. Afforney General,

program which provides that all PVPs, will be released some itarizinally with the released some itarizinally with one one drawn of U.S. from South Vartham. Providing that the U.S. (1) set a date for the withdrawal from South Vartham of all U.S. forces and from South Vartham Once these points are acreed to, the proposal states, the release of providence of the withdrawal of U.S. troops will liberal on the rame date and will end on the same date.

Notion's retual to take these two steps is what is presenting the POWs from returning floors. His determination is positions supporting supporting the Truta recover, no matter what the cost, can only lead to further exclusions on the war and to the loss of more U.S. pubos.

#### Ramsey Clark Talks with P.O.W.s

Former U.S. Attorney General Ramsey Curk recently returned from North, Viernam where he stated a POW cann and rafted with ten captured American white He with either American to reset a Bells area in congret weers. In a prospcient, rice to 823 controls, Cark made the Johnson's statements, about his consensations what the provinces.

"I went to eagly the mome where they stay. Here've get two men to the room. I taked be not, with the mon, in thom tooms and men went into what they said — and the promortization and, was then during rooms and the I of us sat around the It sie and had a kind of a buil session for a supply of hour."

"Te men are anyous," Clark said.
"No outh an our that. The men are in good near to free on their greatest ar risk was terr their wises and min ethand med their whose that they exing it has a fingle death."

"These ten men were unquestionably humanely treated," Clark said, "Their individual yours are netter and bitter than the footing in essentially any principal have user writed anywhere. They're bare. They're have as they are here a top to the agent to give my for a guy tike me said to them. But they're big and they're said they're big and they're said they're big and they're said they we get their pictures hante g up on the wall and they're said.

discord parethase and therise per a little enden mande"

fatte and encounted?"

They talk of about other promisely had been in," he said, "and they said to promisely each temperature that seem has to other promises to other and to be seem to be suited as a the other prosons and the food as about the same. And I believe them I bupper has believe them as a strong end men. I don't believe they've have been put down in hear down. I think they be men if at strad on their down in their down how see it."

Speaking about the release of the POWs, Clark and. "I haven't the dollness do not not not if what fill the control of the presences will be released."

Clark said that the edition of the largest paper in Harror told, how that this his juddement, as an illustration, if three Agree a change in the Admirror amount that provinces would be recorded Jan. 20, 1972. And he said in worldfire take 40 days to get all the provinces back. The Foreign Minns er said, that in could be done the about provident time?

The men principle they if or released when the walls over," he said "And everyone I talked to in North Victimal believed they?" he released. They don't entry keeping them there, I don't think. They don't entry leeding tham three times what they relable to feed their own people.

"And I think that anyone who true to fell you the proporers wind the released is trying to use the proporers pointially—or as the Foreign Minuter said, cares more about the Thieu government than about the American proporers."

#### POWs Speak Out Against the War

In the past year, a number of captured Amendan pilots bell. in North Vietnamhare publically taken annewar stands—holling press united acts, in aking statements, and writter letters to the U.S. Congress and other orders.

Last May, cubt of the POWs held a press contenence in Hanni where they read a letter address of to the people of the United States and the Congress of the United States from American priors captured in North Victimal." Among the sames of the letter was Victima A. Charles, one of the three POWs about to be released by Victima Victima.

The letter said in part

"On Sunday memine, Areft 16th 1972, the peace of Hanni and Haiptiong were shattered by American bumbs Many innocent people died a totally needless and isenseless death. We, the detained Americans in lianos, could not help but be struck by the fut my of such actions. We have come to know the Vietnamese peorle, and we know that no bombing, or no threat of Seath, is grong to still the spirit that live; in them believe that widerpread burning of North Vietnam serves only to turn world opinion more strongly arams the Linded States, and risks the crath and capture of many more Americans, as well as endangering the lives of those stready held car tive

The appeal to the American people to exercise your rights and exponutations and demand an end to the said months and demand an end to the said months appeal to the Commiss to take from positive action to an with the words already special aspects the said The recomptions of the Pars peace monterwise and across a production stand of the Theorem People of the Program of the Program

7 4z.

WAR Ecetin part

### Religious Groups Condemn Thieu

Repressive measures recently taken by the Thieu recome azimst religious believers in South Vietnam have given rise to antispresid apposition.

Adopted opposition

Buddhot Cathilla and Cao Dairetroops

2 statems recently came theother to
come 4 just statement conferency the
thorus alternatives for its available or
retrieves and retrieves the theory.

The statement charged Thicu and the US with "trampling undertoot the trendom of worstip of religious people in worth Vietnam."

"They have driven to the hattlefront throusands of Booldhus and Catholis provide," the statement and Tand put in ail. Does provide whos recover, to make originate all for the war or money department for ministrating and opposition release arms the united and opposition from those in order of more than a forces to worden out and attack reflections content involving the real matters of the Constant Working.

centh and the Buddhers students." The use southerned. There's the statement dies continued. There's considerate or less passes that or less that or

diff when

comp .treits "

In hore statement, the relievous groupcated a number of instances where given ment instance, where into parodis and its nobes to draft religious people in the instance or instance.

The three covers also condended the Thick after you was for "carrying commons a measure of "carrying commons a measure and also determined." He district the statement and, "the number of Bills of believes assessed in the pier four countin row to 1,199, among whom were two tensor emperous or his notice. Their restrict the soil area of person a very later with in Poulo Conder provided the short Conder provided the state of the conder provided the short conder provided the short condernation.

for a time the schooling prospe and many periods, and about his have been detter we have no his and about

The established televine his the There regree the statement concluded the array writer the limith Victizances people of technical butter and theretay to define a temperature with his train.

The other it was needed in Aug. Johnson. Sections from the Head thickness for the section of the Head thickness for the section of the Head thickness for the section of th

# John on Pledged Peac Plotted War

The Pentagon Papers is eal strong similarities between President Nicons at ware to each the fact four years, and the air war policy bearin by the Johnson and nametration in 1961-65.

three Patiers, the government Enters of the Victimia Win, show that in 1964, the war was come built for the Americans and the Sign government. The Fernation Papers call it the year of political

and military decline.
The year 1961 was marked by the gradual American analoging that the Vac Cong were unning the war in South

(GE, vol. 3, p. 287) As unst this terker are, of A. un-t be a to plan a program of American air war escalation. On September 10, But, during the presidential clos-tion empagn, President dot son secutly ordered preparations to cair sericly ordered proporations to care
meta-ks against North Victiam (GE,
Vol. 3, p. 288) The President made
those preparations while he claimed

to be the peace candidate, Johnson, 'In his campage had placely made manifest his distri-clination to lead the United States into a water war to Vat num, repeatedly employing ! slogan 'we are not going North'."

(GE, Vol. 3, p. 289).
The air war was can fully und cast-fully planned. A great deal of a pentun was paid to public opinion, Congress, and the press Ad-ministration planners followed the model of the Gulf of Torkin incident (August, 1964), where the U.S. used the alleged firing on one of its heats the alleged firing on one or no coaca as justification for an air reprisal. The Tonkin Gulf incident had suc-

creded because it portant threshold in the unit cirtually no domestic criticism, indeed with an evident in ters in public support for the Administration. The precedent for stakes against the North was Thus established and at very little apparent cost

(NYT. p.270)

#### Reprisals

The Administration considered the "tit for tat" represal policy a way to introduce the ar war. Sow the United States would carry out United States would carry out-receisals, against the North for ac-terns that took place in the South On February 7, 1965, the Vort Cong, attacked the U.S. military in-stallations at Fleiku, Within 24 hours, American planes, hel though North in reprisal. A socioid strock, lauched those days, but may lann hed three days later, was justified as

a generalized response to 'con

tituded acts of aggression."

(GE, Vel. 3, p. 271)

On March 2, full scale air rads
took place. On March 15, President Johnson set up guideline s that inthe attacks a continuous policy. The The strikes were no longer

publishes on the stakes has to be p operated websied, the impression beneficial to be

interestor Length to be given as consist regularity and distribution."

(ct. Vel. 1, p. 119)

Demostra and worldwide op-position to the boulding such developed To diset consistion and prepare to carry eat a full scale are war, the Administration planned two peace sections On April 7, President Higher Concern spelceaffed for Righth Criserity sindicated for teachtring "with all pring are perconditions" but the doctor speech covered a baskesh policy. "Thus the LS was rim at the principle of the principle of the principle."

worked one are purpose of the purse was not negotiated, the purse was on but to attest the crowthe one position to the air war

#### Rolling Thursder

the entire was going to have to be extended and banch. ing intens, and he are Hanna be cover and politically more

H. M.A. Pool, Operation Rolling He May, Prob. Operation moving True fer, as the air policy was colled, was fully under way, It was planted out in stages, with a solution of a reference of the stages. . . ..

North was long thed in the home that it is wild strengthen GVN chare most of Verman's em-titions and is housen and test it would better as restmay for DRV (De normalia Republic of Notice the bounded Republic of Northeart — North from ear-side trag its support of the recolutionary war in the South."

When the ar war failed, hundreds of thousands of American troops were sent to Victiam. When this notion failed to win the war, most of the troops were withdrawn. Now the Nixon admirastration is ex-alating Nixon admirastration is estalaring the air was, creating a situation similar to that which existed in Pro-Field 1 Times of Scitations, 4, 1972, repeats that, "With the with-drawal of combat traceps, the showdown between South Victorianeses and Communist traces that seemed imminent by 1965 and was postponed by the presence of American forces, will be at hand within the next two years."

Nixon has chosen the same strategy which didn't work for Johnstrategy with a man't work for admission in 1965. He hopes that a highly mechanized air war can brink about military vietery in Vietnem. He hopes that this strategy will satisfy the American peoples desire for

Quetes from the Paper which were used in the arricle come from the following NYT - New York Times edition

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and Prosident is son took office. Come to tens of barros d. Indochina. More than two and a half Hurs smas a month

deliberate combination of inten situal nultiary pressures and dipiomatic enticements, what it had hoped would result from a mere tober, demonstration of capability and resolve. The with but the stick was still the more tangeble and visible element of US police." (GE, Vol. 3, p. 356)

The pressure for a hornbing halt outmoud to increase By May, 1905, a bombing pause of several days was

drama and level of the escalation The Johnson air war policy had two objectives, to prop up an unpopular Saigon government and to breat the will of the North Vict-

bret the will of the North Vie nam se through massive bonding "the United States" decisions to re-mixed against ag-background of anguish and con-cern over the threat of imminent collarse of the Government of South Vietnam and of its ut its melitary effort against the Viet Cong. The air war against the

## Nixon Planning Escalation?

another consistion of the war possibly one that would include the use of tached made it western? On September 1, two prosessint could see will have been ers will have been tral balloons' for further eschafton.

New York Times, remed In the General Mark Clark wrote an arricle eritled "Linuing on the Vietnam." Mark Clark, the last US mander in the Kircan war, ordered the bombing of dams and strigation works at North Kraca in the last quantity of the war. In his article, be compares the struction in Victoria today to that in korea in 1953. "The message I got in Kinga in 1951 when controuted with a service struction and .. 'turn on the hear, let the festirable events have it ""

Intay, he concludes, the attration is much the same. "The North Vietnamese are histore, now is the time to 'turn on the heat' and destroy the turners contribunt to their war effort, just as we lil to bring the Germans to union dramal-carender in World Was II."

Turning on the heat he mikes view, means that North Vietnam "can expect be used those on the to the unprecedented punishment from our arr and rad power"

I was more commons was an arricle ablished the same day, by syndicated colut that Joseph Alsop, watery viewed as a sex kesman for President Nixon In Lin article, entiried "Nixon Looking for a Bird me Point, he disapares the current situation in Victoria to the fast days of the war against lay in in 1915

His main point is that the ure of the storic bomb in 1945 was " he final factor in the narrowest possible valuese" that persuaded the Japanese to give up without the U.S. having to wrade the Japanese islands. Such ar avaing according to General MacArthur, would have cost at least haif a toillion omerican casualties. The message is clear: By spring maximum force, mele line the Abouth, the Japanese were sade to break"; sumirely today the North Vertransese must be made to i real, by Trp's my maximum force.

Many reople were surprised when armounced the mining and blockade of North Vietnam's ports in May In the coming months further unprecedented and dangerous escalations

may well take the

#### Que Son continued from WAR firtheten page ?

#### PRESSURE ON SARON

While attention has been founded on the northern front, pressure was no re-sed around Sugar Several face infirms bases near the capital to lading Ben Hos I'm khe and Long Both have been attacked in recent week. All from many highways teather into Soon have been aut out no the PIAI mans trops in the Past mmth

In the math of the opital Savon torce have toolis zone up using to upon the have the experience of the extension been red-placed to seryous for the de inwait Sage of the if

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wherat to see in resent weeks in My I no prosture A permanent blacking of the sould tailate the capital from crucial rice supports

With Navin a ground time ensury eq on the nation frest, the i S and ereaded to the me of a none argumento try to stop toke MT alkanies. In the list two remarks, I & planes have them user 125 B 2 unisum, azamst Ms. Ital promise there

Much of the Miking Belty is now described by U.S. offered to are edid or Sogia, but an are, all, the MI most great treels line has trappeded without large water harries. The exple sylveter attrian on had evil and trace out on paler and artes to al Agreed the eyes hargers on horses of control has been elemented the SII

THE REPORT OF THE PARTY OF THE

actually administer dish ide in large dom to in the Delta Ideratein Pres-Acro's court's reported, for example, that the NIF had set up 1500 new wheat were the offer as the

#### MINOS WRONG .

Disput their widely publicated content offersions, Salem has been must e to reserve the entry with he ste PLAL on the birthetical this spring and surmer. No substantial rica taken by the PlAt his tren is mere! Inited division after discourse has been three as into gonie chatter by ethore at Antan mitth and to A die with those marie, has estimed a new and major deteat the true him within

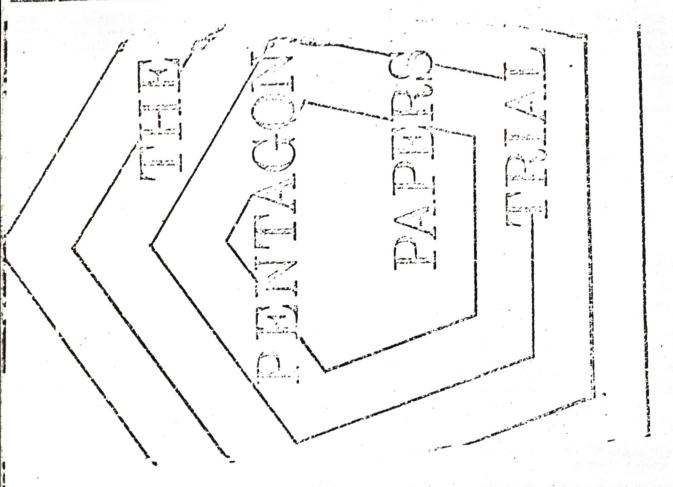
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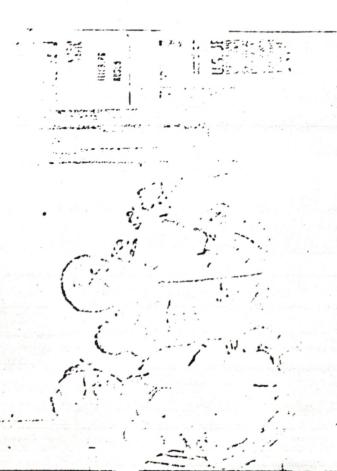
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caracted to accept U.S keeps to a with rent in Pris In fact, de stal 5 all and wa power, the PLAF's mingry uturtum in wurh Sætnem it fer retter than it was a year or even there mumbs



PENTAGON PAPERS PEACE PROJECT 125 W. 4th Street, Suite 612 Los Angelos, Cald. 90013 (213) 489-4250



# THE PENTAGON PAPERS DELONG TO THE PROPLE

# VIETNAM PELONGS TO THE VIETNAMECE

The trial of Daniel Ellsberg and Anthony Busso begins this week in Los Angeles. They are being tried for acts that led to the release of the secret. Defence Espartment: study of the Vietnam war known as THE PENTAGOM TAPERS. Ellsberg faces 115 years and Russo faces 35 years in prison.

Since no one has ever been prosecuted for doing what Dan Ellsberg and Tony Russo have done, and since no specific laws have been broken, it is clear that the Enceutive Franch of the United States government is using the triat of the United States government intimidate others was may also wish to liberate secret government information that the American people have a right to know.

THE HENTAGON PAPERS TRIAL will be one of the most important in American history. At stake are issues related directly to aggression abroad and repression at home.

In the trial, Dun Ellsberg and Tony Russo are defending their freedom spainst government prosecution, while the Duporu in evidence thow that the Executive Branch has been prosecuting a war of appression arainst Victuamets self-determination and against the best interests of all Americans.

While Dan and Tony are defending the people's right to know about the government policies that so deeply affect our lives, the government is trying to use the trial to make new censorship law that would effectively suppress such information.

While Dan and Tonv are defending the right of self-determination, especially for Americans, the government is viewing the American people as an alien power.

Really for relat Photo Dy Cool Bomso

Tall South Land

THE CASE OF THE PARTY OF THE PA

The Story of the case began on June 13, 1971 when II. So york Times printed the first of a series of articles and classified documents on the history of the war, now known as THE PENTAGON PAPERS. The Thing was able to print three installments before further publication was hilted by an unprecedented injunction obtained by the US Attorney General. For the first time in America's history, a newspaper was restrained in advance by the government from publishing specific articles.

Leston Clobe, Chicaro Sun-fires, los Angeles Timos and chicar newspapers continue! to publish portions of the Tentagon Papers and test of First Amendment freedoms of the Traces. At a Committee Learing, Alasha's Yenator, Wike Gravel, also read portions of the study into the public record, and a Gallup Foll sbowed that 58% of the American people who knew about the case supported the newspapers' right to publish.

On June 30th, the Eurreme Court ruled 6 to 3 in favor of publication, with Justices Hack and Bourlas expressing the view that "prior restraint" on publication is prohibited by the First Amendment. Justice Hack said: "The government's jower, to consor the press which the press would remain forever setrained press can effectively expose acception in restrained press can effectively expose acception in government." In July, the President declassified most of the study and instructed the Covernment Frinting Office to prepare a 12-volume edition for public sale.

instance, still intent on a legal coup artinst the partice Department indicated table: slisher to know, the Justice Department indicated table: Elisher for theft end capionage. On June 20th, Dan Elisherg voluntarily surrendered to U.S. Marshalls in Escton and took public responsibility for his actions. He said: "I folt as an American citizen, a responsible citizen, I could no longer cooperate in concealing this

information from the American peoples."

Elx menths later, and a few day. Witte in-left hearings were scheduled to begin, whose fareles rent jury returned a new indictment charring lander alishers and his former RAND colleague, Anthony Passo, with conspiracy, theft and espionage.

# WHAT ARE THE PENTAGON PAPERS?

The lentizon Dapers are a 47-volume Duffine Intertaction that the Precidential decinion-right processes that create and exeminated our un district. The cudy, entitle! Thictory of U.C. Decision-Making Process on Vict Ras Julier, was complicationed in 1947 by the Competency of Persons on Newtonery, and objected the St. Science of the Competency of Making Intertaction of the Competency of Persons of Persons of Persons of The Competency of The

The Pentagon classified the Pateurs for Secret as a matter of routine practice and produced only 15 copies.

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# WINTERSTORM TO THE PARTY OF STREET

The Tento, on Tapers are enhancesing to the coverament because they contain information that and rout. All public Freedential Justifications for the var. The socalled "secrets" revealed by the Fentaga layers and to do' - not with Wangens, codes, troop movements and other such military matters - but with Presidential policies of waging an aggressive war under the puise of protecting freedom and national security.

Exginning with our support for the French colonial

the Tapers, we "alkared uniformly to a collected of location to the Tapers, we "alkared uniformly to a collect of location to the French rather than to Victoracce Englanding Constructive steps toward Victoracce inducations." the United States has pursued a consistent policy of may positions the still need to ask way."We have not the tari," the Pentagon Papers provide cloquent answers. The Tapers show that throughout our involvement, American policy-makers have frequently lamented the vitality of the government of south Vietnam.

For example, in July 1967, Fobrit McNomara wrote to .
Fresident Johnson that the rural Vietnamics believed
"that the CVN (sovernment of south Victuar) is really
indifferent to the pupple o welfare; that the largest of the John of the that the largest of the local rich and that the largest of the form riche with cobraption." Invited 11 leaders of the form of the wearth of the was triefed on a study of Viet Cong motivation and morale in 1967, he replied: "If what you say in that briefing is true, we're fighting on the wrong side."

Although the Victorneso had won their independence in 1945, they had to fight for it again when the French re-occupied their land. The Victorneso decisively defect the French in 1954, but the Geneva Accords that safe in the French of the Yearn force in the Tith paralled beauty division of their mation at the Tith paralled with the promise of reunification elections to be well in 1976. Towever, because the United Status begin to the integendence.

The Fentagon Perers show bow, in 1954, the United States regen undermining the Geneva Accords by sending "cold war combat team" to conduct clandestine military and psychological warfare operations against north Vietnam and indigenous south Vietnamese nationalists.

In north Vietnam the team conducted rumor emphasms to discredit the Viet Much notionalists on! encourace propie to move south. Although Makard Lanchale, head of the team, reported that "Vietminh relations with the mass of the population during the fighting had been exchaplary" as opposed to the Vietnamene Mational Army which was more ledge at coving a population into feeding them, providing them with girls," his team circulated number about Alley Mich atmost them the predictions about coming disasters to certain Vietminh leaders and undertakings, and to predict unity in the south. The work was carried out under the direction of Lt Phillips, based on our concept of the use of antrology for psyme in Southeast Asia."

The term also helved to organize airlifts and other means of transporting people south and "spent the last days of Hanol in contaminating the oil supply of the bus company for a gradual wreckare of empines in the buses, in tabling the first netions for delayer substance of the railrow! (which required teamwork with a CIA special technical team in Japan who performed their part brilliantly), and in writing detailed notes of potential targets for future paramilitary operations..."

In the south, the tear helped to organize political end military support for Mgo Dinh Diem when the United States wanted to install as south Victnam's leader. The tragic frony of this situation is that nine years later the U.S. decided it could not win with Diem because, as the CIA reported, his regime was essentially authoritarian. Therefore, the U.S. assisted in the 1963 coup that resulted in Diem's assassination.

The fatal blow to the Geneva Accords came in 1956 when the U.S. backed Diem's refusal to hold the 1956 elections. In 1954, the CiA had reported that: "If the scheduled national elections are held in July 1956, and if the Viet Minh'does not prejudice its political prospects, the Viet Minh will almost certainly win." Robert McNamara later concluded in a report to President Johnson that: "Only the

together under far more favorable circumstances, and enabled Diem to refuse to go through with the 1954 provision calling for nationwide 'free' elections in 1956."

A striking feature of the Pentagon Perers is the absence of concern about the effects of American military actions on Victneyese lives and culture. In 1961 the Daputy Socretions of Pefense Task Force.

rejurced that: "The area should be treated as a lab- catory and proving ground as far as this is politically feasible." Civilian casualties

are taken into account only when they appear to affect the course of the war, as in Fager Hilsman's 1961 report that "indiscriminate bombing in the countryside is forcing innocent or wavering peasants toward the Viet Cong."

# WIAT LIES DO THE PAPERS REVEAL?

The Pentagon Fapers reveal that four successive Presidents have deliberately tried to: 1/ acceive people by withholding important facts about the true nature of the war;

- 2) mislend prople by saying one thing in public and doing another in secret; and
- 3) manipulate public opinion by staging military actions and selectively releasing "secret" information at politically expedient times.

For example, the Papers reveal that President Johnson had plans to escalate the war stainst north

Victnam, but delayed them until after the 1964 elections because he wanted to present "himself as the candidate of reason and restraint as opposed to the quixotic Exrry Goldweter." Again, in the Fall of 1966, the Papers show that President Johnson deferred "major decisions on the war until after the elections. Several 'peace' candidates were agaressively challenging Administration supporters in the off-year Congressional contests and the President wished to do nothing that might boost their chances. As it turned out, they were overwhelmingly defeated in the November balloting."

The Funtagon Papers are an expert's ruide to the art of deception. While President Johnson runnounced in his 1955 State of the Union Address that: "Ne are [in Vietnam] first, because a friendly nation has asked us for help appinst the Communist aggression," John McNaughton, Assistant Secretary of Defense, wrote:

# U.S. aims:

70%-To avoid a humiliating U.S. defeat (to our reputation as a munrantor).

205-To keep SVN (and the adjacent) territory from Chinese hands.

10%-To permit the people of SVN to enjoy a better, freer way of life.

ALEC--To emerge from crisis without unacceptable taint from methods used.

NOT-To "help a friend," although it would be hard to stay in if asked out.

While our Presidents were justifying escalations on the basis of alleged north Viet- namese actions, the Joint Chiefs were preparing and

carrying out "provocation plans" designed to lend north Vietnam into incidents that would justify American military escalations.

tives and allocation of more than token U.S. armed forces " Indochina would be a serious diversion of limited U.S. While our Presidents have also justified the var on the besis of the "domino theory" (that if south Vietner "fell to the communists, all of Southeast Asia vould fall"), the CIA was reporting contrary information and even an early as 1954 the Joint Chiefs of Staff rejorted that: "Indoching is devoid of Secisive military objec-.abilities."

Finally, the Papers show that these deceptions often became self-deceptions with policy-makers leaving basic

an impossible victory; and acting on information that they assumptions unquestioned; grabbing at straws for signs of united to believe rather than true, accurate information.

large meacure and will become more so as facts leak out." Outsight lying is also revealed by the Papers. For respectable turning back; the overthrow of the Diem gov-When Dien was overthrown, American officials denied our participation. In 1964, Lodge told The New York Times: "The United States was not involved in the overthrow of example, in 1963 Ambasrador Lodge called to Washington: ernment. There is no turning back in part because U.S. precise is already publicly committed to this end in "We are launched on a course from which there is no the Diem regime."

# WINT DO THE PAPERS SAY AROUT NIXONE

Although the Pentagon Papers' history of the war ends aggressor in Vietnam, the Pentagon Papers demythologize all the excuses that President Nixon has presented for ends in 1968, it is not dead history. By undercutting Presidential justifications of the war, by revealing lies and deceptions, by showing that America is the continuing the war. .

creation of the United States." As Tony Pusso has put Papers conclude that "South Vietnam is essentially the recent military escalations on the grounds that north But the Fentaron it: "There is no way that the Vietnamese can invade For example, Tresident Mixon has justified his Vietnam is invading south Vietnam. Victory.

He has merely returned to the white House Eisenhower, he was privy to all the Executive decisions to pick up again the var that he helped to begin in the all the more deceitful because, as Vice Fresident under He knows full well that Nixon's justifications for continuing the war are he has not inherited a bad war from his Democratic and deceptions used to begin and justify American かいいい aggression against Indochina. predecessors. 13

has not changed much from his hard-line position of the 50's and early 60's. In 1954, he seid that "the Vietnemese lack the ability to conduct a war by themselves or govern themselves." Although he now claims to be President Nixon's basic orientation toward Vietnam

following a policy of "Victnanization" of the war, his extraordinary reliance on bombing and electronic warfare indicates that he still does not believe in Victnanization. Although Mixon is not using nuclear weapons in Indochina as he had proposed in the '50's, he is dropping the equivalent of 2 1/2 Miroshimas every week.

President Nixon's justifications for mining the harbors and indiscriminately bombing north Victusm are all the more insidious brenuse The Pentagon Papers say repeatedly that, short of annihilation, bombing is in-flective. Like the strategic bombing survey after 1. d War II, studies of the bombing of Indochina have coucluded that such bombing kills many civiliums, but will not end the war.

Furthermore, the Pentagon Papers were recently updated by the release of the secret National Security Study Memorandum No. 1. MSSM-1 was prepared for Nixon when he entered the White House and represented the opinions of all government agencies concerned with Victura in 1969. In brief, NSSM-1 told Mixon that the "domino theory" was bunk, that the Executive bureaucracy was deeply divided over bombing policies, that any high bopes for Victuralization were unfounded, and that no agency was willing to predict a US victory in the near future. The "pessimists" said that it would probably take 13.4 years for pacification to succeed; the "opti-is" said it would only take 8.3 years!

Fresident Nixon's handling of the var indicates that he is continuing the fundemental policies of aggression and deception exposed by the Pentagen Papers.

Mixon's major public deception is the claim to be ending the var by withdraving ground troops while dropping more bombs on Vietness than have ever been dropped on a country in the history of the world. His major self-deception is the idea that he can end the war short of annihilating the people of Indochina.

# ARE THE AMERICAN PEOPLE AN ALIEN TOWER?



As eitizens we are told that the purpose of secrecy in government is to keep vital defense information out of enemy hands. But the Pentaron Papers show that our Presidents have been fighting three enemies: 1) the Vietnamess, 2) Congress and 3) us! Therefore, since WE are the real ENEMY of the Executive's war, Dan and Tony are being charged with espionage for giving us the truth.

Ironically, the Penteron Papers reveal that the power of the American people is still potent.

The Papers contain many reports of Presidential atterpts to mold and manipulate public opinion out of fear that if the American people knew the truth about the war, they would act to end it. As the Ansistant Sec. of Refense wrote in May of 1967: "I see this war as a race between, on the one hand, the development of a viable South Vietnam and on the other, a gradual loss in public support, or even tolerance, for the war." This is why five Administrations have made such strenuous efforts to keep the American people in the dark.

This is also why it is so vitally important that Dan Elisherg and Tony Russo be acquitted. In the Fentagon Rapers Trial the Executive Branch of the United States government is viewing the American people as an ALIEN POWER.

Therefore, a conviction would permanently establish the government as an enemy of the people.

ALL PAPERS TO THE PEOPLE!

-13-

# KENT APP THE CHANGES?

Instal Ellstorg and Anthony Bucco are charged in a fifteen count indictment. The 12 counts against Ellsberg include three back offences:

- 1) Constract to defraud the government of "its lawful function of controlling the dissorination of classified documents;" conspiracy to commit theft; and conspiracy to commit espionage.
- 2) Steeling specific volumes of the Pentajon Reports and compating than with. out turning them over to an official antitled to receive them.
- 3) Violating apploance laws by communicating documents to percons not nutherfluid to reaching

In a counts, Fusco is charged with:

- 1) Conspired with Ellsberg and others.
- 2) Receiving stelen volumes of the Pentagen Rapars with intent to convert them to bis own use.
- 3) Violating the appioners laws by receiving classified comments without authorization and retaining those decu- to continue then the decimal transfer the filler to continue them.

Din Ellaberg and Tory Russo are not chircad with giving the Fontaron Reports to the neverthern, nor are they charged with making coney from their pillication. They have received no income for relevative the Inpure. The acts with which they are charged alloredly occurred between March, 1969 and September, 1970. That period ends nine months before the Fentagon Papers became public.

# ESP101AGE

Rilsberg and Eusoo are not charmed with riving away secrets shout military weaponry or current stratery, nor are they charmed with violating any low making it a crime to release classified information. Unlike Pritain, America has always refused to give the Executive Franch the power to make it a crime to release a document simply by stemping it Top Secret.

Decause the classification system and established by Ranco' (vo Order, not Congressional legislation, the usual remody for breaches is administrative reprimand. A Federal employee who discloses classified information may loss his or ner negurity elements of 10h, but cannot be remut to prient for that offence (lene. In only two nearly of the confident of the parties of the principal control instructs of the parties of the principal control instructs of the parties of the principal control of information given to a foreign arcut by a covernment employer. Neithber applies to the Ellsherg-Russo case.

practices are, theoretically, violations of classification classified information is regularly "leaked" to the press releast charuffied information in order to billi Congress ments with them then they leave effice and including use Classified information is also made available to regulations. Yet, no one has ever been criminally prosethem in articles and memoirs giving their eym varsions of officials, like Frestdent Johnson, take classified docufor purposes of Congressional and public opinion manipuselected university libraries. All of these wilesprend public has never been considered esplonance. In fact, because the relaces of chastified information to the sfount or public support for thair points of view as The pronecution of Ellsberg and Passo is unique Fer remonts of the Executive granch often Opposed to those of other Executive depurtments. lation. events.

Of course, the particular information contained inthe Fantagon Espers is entarrassing to officials in past and present Administrations, but there is no law against releasing politically embarrassing information, and it certainly is not espionage. In fact, the release of embarrassing political information is the normal stockin-trade of most politicians.

Since there is no classification law under which Ellaberg and Russo can be prosecuted, the government is reaching into the Espionage statute and trying to use it in a new May.

According to the Niplonage Act, the disclosure of classified defense information is a crime only when that disclosure is made "with intent or reason to believe that the information is to be veed to the injury of the United States, or to the advantage of any foreign nation." Yet in the indictment against Ellsberg and Russo, the government has carefully excluded any charges about their intent. They are not charged, for example, with copying classified documents. There is a section in the Espionage Act making it a crime to copy defense documents, but it explicitly requires a subversive intent which Ellsberg and Russo obviously did not have.

Even though the law has never been used this way, the sovernment has given no reasons for avoiding the "intent who injure" clause, except to say that the section under which Ellsberg and Russo are being tried does not require groof of intent. The real effect of avoiding "incont" is that the government will try to convict the defendants without allowing the jury to consider that they intended to help the American people by revealing the truth about the war.

The defense will arrue that the regulations covering the classification of documents must be read in light of actual practice. If this is done, Ellsberg and Russo must be acquitted for one of two reasons: either

- 1) they merely followed the existing customs remarding the handling of information, in which case they committed no crime, or
  - 2) the law is being used selectively to prosecute them for politically embarrassing breaches of the classification rules. In that case, it is discriminatory and void under the Constitution.

# THEFT

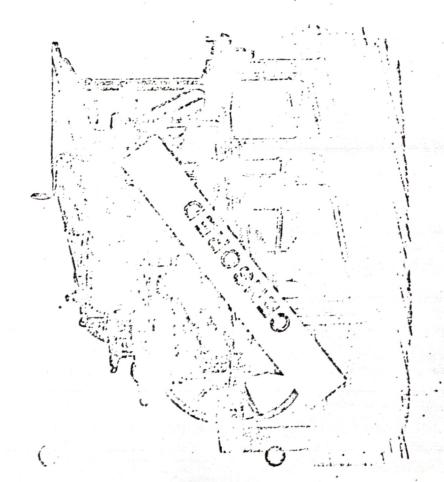
In the indictment, the government is also interpretaing the theft and receiving statute in an acknowld and novel way. The theft statute has slower been applied when the government suffered permanent or substantial loss of tengible property. In the case of the Pentagon Papers, so theft of physical property ever occurred. The government still has the Papers. Dan Ellsberg and Tony Russe just made sure that the rest of us could read them too!

When it was discovered that there was a question about who really "owned" the physical documents that Elluberg and Ruses used, the government reinterpreted the indictment as saying that the defendants stole the arrangement of the wards on the Papers and the ideas conveyed by that arrangement!

By using the theft statute in such a blunderbuss way the Executive Princh is trying to stretch it to become the bird of information control law which Congress bes repeatedly rejected. The First Annohent cays that in standiens where government interests, such as the control of information, are to take precedence over first Amendment interests, such as the control of information, such as the public's right to know, Congress must specifically velgh the competing interests and encet special legislation addressing the problem. The courts cannot interpret new meaning into laws which would so substantially affect First Amendment Freedoms.

Therefore, if Elleberg and Russo are convicted, the Executive Branch will have succeeded in using the Judicial Branch to produce a new, repressive information control law which the Legislative Branch has repeatedly relused to enact!

With such a precedent there would be no limit to government secrecy and anyone Who published or read such information would be liable for prosecution.



# COMSPIRACY

Since there is no specific law defining Ellaberg's and Russo's actions as criminal, the government hopes to get at them indirectly by trying to prove larceny, espionare and conspiracy. Conspiracy is a broad, elusive catch—all charge that governments often use when they have no other substantial legel legs to stand on.

The conceptracy doctrine originated in Medieval England during the reim of Edward I. It was used to prosecute people who brought false and malicious cherres against innocent people. However, in 1611 the infamous Court of the Star Chamber reinterpreted the doctrine to say that the crime of conspiracy involves an arresment, not in committing a crime, but in planning a crime.

"Thus," as Jessica Mitford wrote in THE TRIAL OF LR. necessity of proving any actual wrongdoing by the defendant... Because of this extraordinary feature, conspiracy has long been favored by prosecutors as a means to convict union organizars, redicals, political disanters, opponents of governmental policies, and other troublessed that via could not otherwise to put behind bere."

The conspiracy doctrine also allows the government to charge people with conspiracy without necessarily indicting them. In this case, the grand jury also charged Vu Van Thai and Linda Sinay with conspiracy, but since they fall into the category of "unindicted co-conspirators," they will never have their day in court.

In conspiracy triels the customary rules of evidence are charted, and nerulous, hearsny evidence is often adultted where it would be excluded in ordinary criminal carps. The conspiracy "agreement" can be inferred from such circumstential evidence as the act of Xerokinz. Furthermore, only one overt act, however innocent or innocuous it might be, need be proved in the courtroom.

-19-

Finally, even the statements and acts of the co-conspirations (including Dan and Tony) made in furtherence of the alleged conspiredy are admissable against Ellsberg and Russo.

# WHO'S ON TRIAL?

Limin Ellichter is a former Marine Corps officer who holds a Harvard Fh.D. in Economics. Dr.Ellsberg was a strategic analyst at the FAND Corporation and a consultant to the Defense Department from 1959 to 1954.

Foring the following two years, he sorved as Special Assistant to the Assistant Secretary of Defence for International Security Affairs. He agent 1965-67 in Victuam, first as a State Department volunteer on General Landale's scalor laison team (Lensille is the U.S.'s top counteringuagency expert), then as Special Assistant to Deputy Ambassador William Porter.

In the fall of 1967, Ellaberg returned to RAMD, where he began research and writing for his portion of the February and continued to serve as a consultant to the covernment on high-level policy mitters. In late 1968 he coordinated MADD's development of a range of policy "options" on Vietnam, requested by Henry Klesinger for Precident-elect Minon. Early the following year, he pre-All "Antional Security Study Memorandum Ho. 1", a set of quistions Alssinger sent to all agencies dealing with Vietnam, and he helped to summarize the answers to those questions for Mixon.

was the only one authorized to read the entire finished study. In September 1971, when he completed that reading—end found his views on the var transformed—the only other person who had read the Pentagon Rupers in their entirety was the study's director, Leslie Celb. Ellaberg's strong conviction that the American people should know the

truth about the war led him to seek publication of the Papers, first through official channels (including the Schale Foreign Relations Committee), then through the press.

Authory Euser beann his professional career as a research scientist at NASA's Langley Space Laboratory. He holds an M.S. degree in Aeroncutical Engineering from Princeton University, and a Naster of Public Affairs degree from the Woodrow Wilson School of Public and International Affairs, where he assisted Frof. Cakar Norgenstern in the Econometries Research Program and studied foruign policy under Profs. Richard Falk, George Kennan, Klaus Knorr and Edmundo Flores.

Mr. Pucco joined the PAND Corporation in June, 1964. Between February, 1965 and January, 1966 he great a total of 24 months in Vietnam. In connection with the Viet phase of MAID's multi-million deliar Vietnam research program—he interviewed prisoners held by the U.S. and Saigon povernments in Jails throughout south Vietnam. This intimate contact with the opposition led him to respect their integrity and dedication, and to conclude that they were not, in fact, the enemies of the American people.

While in Victorn, Mr. Pusso also conducted a statistical analysis of the crop destruction procram, revealing that 100 pounds of rice were denied to civilians for every pround denied to the Mational Infertion Front. In a study of the relationship between socioeconomic factors and the degree of Viet Cong influence, he demonstrated that the NiP found their strongest support among the masses of poorer people. Other KAND shalysts had claimed that the MiP drew principal support from self-seeking, relatively well-off people.

Jony and Dan met in Vietnam in 1955. They became close friends during their work at RAND several years

Preputive Orders entablishing such things as a classifi-

The President claims that his power to issue

Inter. In June, 1971 after the release of the Fentagon Repers, Mr. Russo was subpossed by the grand Jury in Los Angeles, then Jailed because he refused to testify unless his testimony could be made public. Judge Ferguson ordered the prosecutor to provide Mr. Russo a transcript of his testimony and he was released after 47 days in prison; but the prosecutor, David Misson, defied the Court order. Tony refused to testify unless the conditions of the order were met. Months later, he was indicted, and now faces a possible prison term as Daniel Elisberg's co-liberator of the Pentagon Enpers.

# HAT ARE THE ISSUES?

The issues in the Pentagon Papers Trial concern not only Americans, but people all over the voras, especially the Third Forld where the United States is presently using "anti-communica" as a mask for its political and economic interests in suppressing self-devermination. If Drn Elisberg and Tony Russo are convicted, America will make a great leap forward into "1984" and our Presidents will be unfettered in their ability to prosecute aggression abroad and repression at home.

# SECRECY

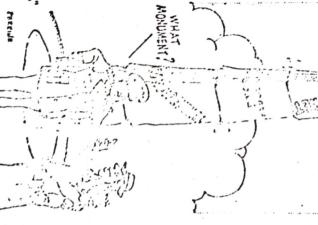
learn that Congress has never passed a law giving the President the power to establish a classification system. The practice of classifying information with such markings as "Confidential", "Secret" of "Private" can be traced back to the war of 1812. The system was established by the military and given formal recognition in an Executive Order issued by President Roosevelt in 1940. Subsequent Executive Orders issued by Presidents Truman, Eisenhower and Nixon have further refined the classification system into its present state.

as a wengon arainet obtain secret information alout its own inability to gress has often complained estion system is derived from the authority vested in the clausification gratem President's ability to use Feategon Papers are elspractices. In fact, On-Executive's classification it has not acted seriously hearings on this matter, him by the Constitution. Although Congress has held quent testimony to the to question or curb the from the Fresident.

At the present time, the Fertagen has alout 1,000,000 cubic feet of classified material. Rep. Orden F. Feld estimated that this equals 18 piles of classified information as high as the 555-feet Washington Manumenti What is the rovernment hiding in all those stacks?

One answer is "nothing." Former Cupreme Court Justice, Arthur J. Goldberg, testified before House

Hoarings that "75 percent of these documents should never have been classified in the first place; another 15 percent, quickly outlived the need for secrecy...." William G. Florence, a retired Air Force official with 43 years



of experience in the security classification field, also testified that "at least 99 1/2% of the total documents in the country tearing security classifications did not qualify for classification and protection in the defense interests of the nation."

The practice of classification in the Executive Branch has become so bicarrely routine that officials have been known to classify newspaper clippings, rubber band orders and obsolete technical information. The situation would be humorous if it were not so costly. William Florence estimates "that at least \$50 million a ir is still spent on storing, protecting and impacting unnecessarily classified defense information."

The second answer is what the trial is all about. If the Fantaron Papers is any indication of what is in the other 1,000,000 cubic feet of secret Manuscrit, then the American pusple are living under a covariance that has gotten entirely out of control of the police. As I is Elisbary has arguelt "The secretary system is the Achilles Reel of the Constitution." Government officials are not free to speak out truthfully and the American people are kept in the dark about their povernment's real policies.

# INTIMITATION

Thus, the real purpose of the trial is to plur the imparial dikes that Dan Elloberr and Yony Busco have bombed. Given the nature of the charges and the fact trat no specific law has been broken, we can only conclude that the Executive is selectively prosecuting them an order to inthibitate other conscience-stricken people in public and private hureaucracles.

like all political trials and like the war on Victnam, Ion and Tony are to be held up as examples of the fate that will befall others who speak truth to power, and demand self-determination. As former Assistant

Attorney General, Fobert Mardian, is reported to have said, the government is afraid of the growing number of people who feel they "should be ruled by a sense of conscience rather than administrative rules."

# SELF-DETERMINATION

The trial, then, has very much to do with self-determination - and as in Vietnam, it is imperative that the government lose.

# PENTACON PAPERS PEACE PROJECT

The Pentspon Papers Pence Project has been organized to insure that the issues raised in the trial will be widely communicated and understood. This is especially important because by avoiding the "intent to injure" clause in the Espionage Act and by marrowing the issues to technical legal arguments, the government is making every effort to prevent the defendants and their lawyers from challenging the legality and morality of the war.

Precidential powers, the whole system of government classification-caercey-lies, First Amendment freedoms, the public's right to know, Fresidential deception of Congress and the people, and the outright manipulation of fublic orinion - all are issues raised by the Fentagon Tapers and the trial, all are issues the government would prefer to avoid, and all are issues that must be brought before the people.

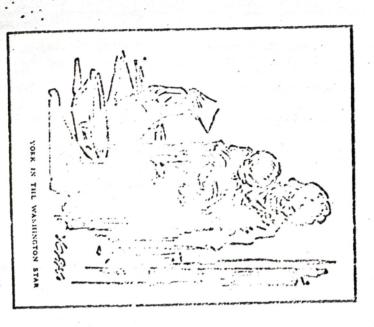
Since the ruitagen Papers give the American people the evidence needed to expose the lies and deceptions that still continue under Wixon, it is important that they be used as an organizing tool to end the var.

'The Fentagon Fajers Feace Project will produce and distribute educational materials on the war, the trial and the Papers, and help others organize around these issues.

# The Project is now developing:

- -A digest of the Pentagon Papers.
- -A film with Dan and Tony discussing the trial, the war and the Papers.
- -A radio "magazine" service for national distribution.
- -A guerrilla theater and mixed media troupe.
- -An occasional PENTACON FAPER with news about the war and the trial.

-Occasional pamphlets.



THE PENTAGON PAPERS PEACE PROJECT

125 West 4th Street, Suite 612

Los Angeles, California 90013

Tele. (213) 489-4250

Inquiries,
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And
Contributions
Are Welcome.

[A complete, revised and up-dated version of this panphlet will be published shortly. For individual copies, write to the Fraject and enclose a 50; contribution if you can. Information on bulk order rates is available]

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will be available for purchase in bulk quantities beginning July 15. are encouraged to reprint all or part of the Puntagon Paper. Copies solicited from internationally prominent writers. Other publications papers reveal about current U.S. strategy. Articles are being mation about time war, and feature atories on what the content of the bulletin called the Pentagon Paper with news on the trial, infor-The Pentagol Papers Peace Project will be publiching a weakly THE PEUTAGON PAP IR

A 16 mm sound film is being produced which contains interviews THE PERTAGON PAPERS MOVIE

it will be svallable for delivery yadase 10° for the film is :0-30 minutes. and the release of the Papers. These are included. Running time defendants solicited reactions from people on the street to the trial sixon haministration, and the secrecy system in government. with Daniel Bilsierg and Antony Purso discussing the trial, the

Bulk lates are available. .vqot a sinop for for soldelinva bas which will be raised in the triel. This pamphlet is 20 pages long A pamphiet history of the Papers, the charges, and the issues THE PENNACOU PAPLES TELLE

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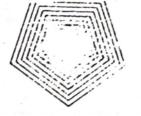
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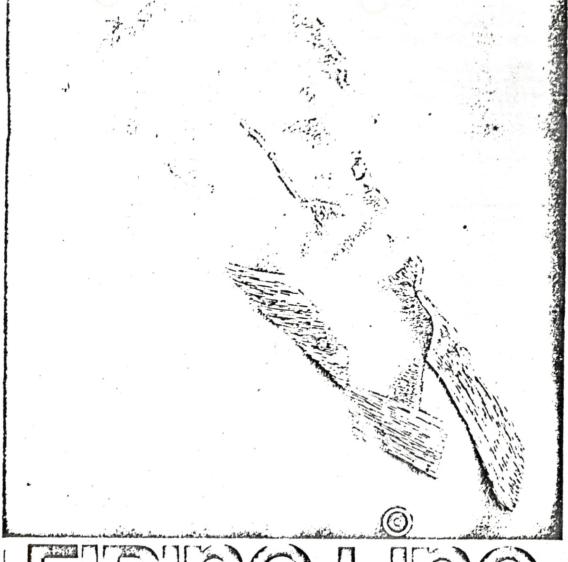
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## FIRMGLINE

Guest: Daniel Ellsberg, Center for International Studies, MIT

Subject: "THE PENTAGON PAPERS"

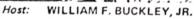
SOUTHERN EDUCATIONAL COMMUNICATIONS ASSOCIATION

TICLOSURE

1104

SECA PRESENTS





Guest: Daniel Ellsberg, Center for International Studies, MIT

Subject: "THE PENTAGON PAPERS"

Panelists: Anne Evans, president, Students United for Life

Dana Rohrabacher, free-lance writer, libertarian
Judith Stiehm, professor of political science, UCLA

FIRING LINE is produced and directed by WARREN STEIBEL

This is a transcript of the FIRING LINE program taped at KCET in Los Angeles on July 25, 1972, and originally telecast on PBS on July 30, 1972.

SOUTHERN EDUCATIONAL COMMUNICATIONS ASSOCIATION

MR. BUCKLEY: Mr. Daniel Ellsberg is on trial here in Los Angeles for what we might as well call his life since, if he should lose on all counts and be given the maximum penalty under the law, they could send him up for 115 years, which would give us plenty of time to end the Vietnam war in time for his release.

I do not know whether what he says here can be used against him at the trial and thought to ask him while on camera rather than preliminarily to satisfy what is, I'm sure, a common curiosity about how one is supposed to behave on television during the trial. Mr. Ellsberg, of course, is the gentleman widely acknowledged as having turned the so-called Pentagon Papers over to The New York Times and other newspapers last summer. The government got an injunction against their publication, the dispute went to the Supreme Court, and The New York Times won by a substantial majority. But that decision releasing the Times to publish did not derivatively exonerate those who gave the classified material to The New York Times, whence the current action.

Mr. Ellsberg was graduated summa cum laude from Harvard where he also took a doctorate in economics, having served in between as an officer in the Marine Corps. He went then to the Rand Corporation and then to the Pentagon to act as consultant. In 1965, he went out to Vietnam for the State Department and returned two years later greatly disillusioned by the war. It happened that at that moment Secretary McNamara commissioned an exhaustive inquiry into the background of U.S. participation in the Vietnam war, and Mr. Ellsberg was available to take an active role in it. That's how he got the copy of the secret papers he subsequently released. He now has a new book, published today, called Papers on the War, and he is with the Center for International Studies at MIT.

I should like to begin by asking Mr. Ellsberg whether he has any quarrel with the espionage statute as it is written — but first, what about the legal point I raised?

MR. ELLSBERG: Well, you haven't come to an expert. I'm a beginner at being a defendant and all I know is what I've heard in court, really. The judge has placed no gag rule on anyone. I think it's very uncommon to do so for defendants in any case. We'll have a lot to talk about other than the trial, I would expect.

MR. BUCKLEY: No, but just on the tactical

point - are you free to say anything? I don't want to ask you maladroit questions.

MR. ELLSBERG: I'm free to use my own judgment and I don't expect anything would come up that would require me to move off from it, but if it does, I'll comment.

MR. BUCKLEY: Oh, okay, fine. All right. What about the espionage statute — there seems to be a lot of ambiguity about just what it says and just what it ought to say. Is there a difference between the two?

MR. ELLSBERG: Well, the espionage statute has, in the past, been understood in a pretty straightforward way to apply to espionage. It's never been used in any other context except against spies or people who gave information or documents to foreign agents with intent to harm the interests of the United States or help a foreign power. The prosecution has, in fact, been unable to come up with an example of a case, recorded or unrecorded, where there has been an indictment under the espionage statute that wasn't for espionage and one that did not allege intent to harm the interests of the United States. My indictment does not allege that intent and it's been framed to avoid any discussion of intent to harm the interests of the U.S. The prosecution has clearly no desire to raise that issue and is trying to narrow the case away from that.

MR. BUCKLEY: Well, let me ask you this. Suppose somebody were to publish in his newspaper, the day before, news about the Normandy landing. Now, in fact, I suppose we would all agree that the Nazis would have profited from that disclosure, but that would not have been the primary intent, would it, of the publisher? His intent would have been to sell more newspapers or get some sort of a prize.

MR. ELLSBERG: Well, of course, the Chicago Tribune did publish before Pearl Harbor details of our Rainbow plans for the war and, during the war, in mid-war, published information derived from monitoring Japanese communications having to do with the Battle of Midway. In neither case did an indictment ensue.

MR. BUCKLEY: And in neither case was it because of a renowned patronage between FDR and Colonel McCormick.

MR. ELLSBERG: No, I think it was for the

dministrations. overnment has not been very angry in the epten daily and weekly - not because the really, that there has been no idictment at all under the Espionage Act for occurred "leaks" which, as you know,

, usi 'cu' merican public without revealing it urbi et IR. BUCKLEY: But, of course, npossible to reveal something to wen in writing in a number of IA that they really had no statute under state or secretary of defense or head of bunsel have always told the angry secretary ast at those leaks but because government BUCKLEY: Yes, and therefore it ERG: Yes, that's one of the J have in a free press. allies, from other countries, or from our enemies. In fact, one thing that led to my revolution of the Pentagon Papers was the knowledge that I gained in late summer of 1969 that we were reproducing the experience of '64, that President Nixon had espionage statute, I'm sure you're aware, or on any statute. They are administrative regulations within the Executive Branch, Those laws operate in a way to make it MR. ELLSBERG: Well, may I say the general principle here is that the American public that are not concealed from possible to conceal things from the classification laws are not based upon the MR. BUCKLEY: Yes, but you're not talking about the espionage statute. I'll spend as to clear them up on the way. much time as you want on these points, but I would, if you don't mind, like just to try

veal it to the American public without ther empty statement, since you can't mething to the American public," is a Hows that RE Your saying, "revealing

to the Defense Department - not, by the nat's what we did in '64 when I first went nounts to wartime without revealing it to mething to stern such as we do have, is to reveal ou see, with a good, effective secrecy vahili public. realing it to the German public or the R. ELLSBERG: Well, what you can do e American public. It's kind of ironic. an enemy during what

there was essentially quiet in South Vietnam and it would happen before the election of '72. In other words, I've had, thanks to

happen unless the Russians induced Hanoi to come to an acceptable agreement or unless

destroyed by the air. And I repeat, I learned

September of 1969. This would

contacts that I've had in the Executive Branch

August, that North Vietnam faced grave d Ho Chi Minh, first in June, '64 and later ere. He communicated to Pnam Van Doirg ate Department and Hanoi in his visits mmissioner on the ICC, the Indochina garded as quite secret that the Canadian w to 21 14:7 ent inf summer of '64. One of the between between our White House and introl Commission, was serving as a -- ne time, but at that time it was it's been discussed in Canada i learned was what was then a

and China and Hanoi did have.

American public didn't have but that Russia

years.

information that the

MR. ELLSBERG: Or President Johnson.

head of state to the North Vietnamese heads I'm talking about communications from our

MR. ELLSBERG: I would not have indicted President Nixon under the espionage statute. (laughter)

MR. BUCKLEY: Well, but I'm talking about the espionage statute. I started of f by

give you an election that required no fra-

The election of President - so-call MR. ELLSBERG: On the contrary, I c

communications from the head of state.

ELLSBERG:

I'm talking about

accomplish,

the public on the basis of what they seconds to know that they are defraudi

certain stipulated safeguards. I want to know the right to make foreign policy, subject to Xerox (laughter) - confers on the executive States - which, incidentally, I urge you to because the Constitution of the United MR. BUCKLEY: That's, of course, frivolous

case, of course, was among those who did MR. ELLSBERG: Yes, such as the advice and consent of the Senate which, in this not have the information of either of these

conveyed to the Russians that Haiphong Harbor would be mined, their ships would be blockaded and North Vietnam would be

MR. BUCKLEY: Well, that's an interesting argument. There are 99 senators who voted for the Gulf of Tonkin Resolution, one who two communications,

> extraordinary abandon. Murray Kempton said MR. BUCKLEY: You use words like "lying and "defrauding" and so forth wi

about you that you always go too far, "too

MR. BUCKLEY: And your question is to defraud the government of its rightful function of controlling information." conspiracy statute which reads, "conspiracy also indicted under count one of the Perhaps we should admit or reveal that I am indicted only under the Espionage Act. at the time to be fraud? You know, I'm not by what was clearly fraud and what I knew functional equivalent to a declaration of war gotten what amounted to what MR. ELLSBERG: Yes, I was in the Pentagon while they were lied to and misled during Democratic administration used as administration, my administration, that period. What is your opinion of having voted against it.

weak step.

MR. ELLSBERG: That would be a very

your 15 friends is ignoble and that you are government with the exception of you and warrant for us to proceed on the assumption far in his moral allegiance to the war, too far, now, in his moral wrath against a authors." I happen to believe that there is no

that everybody who has been involved in

MR. ELLSBERG: What I've been describing

ntingency plans now or any kind of plans; ecise threat to - I'm not talking about perican public that he was making that y that by no means conveyed to the mbaign against Senator Goldwater in a member, was during an election campaign vastation if they did not call off the

occur more quickly to you than to me. MR. BUCKLEY: Well, the similarities would which the President was conducting a

President Nixon to Klaus Fuchs, surely. MR. ELLSBERG: You're not comparing MR BUCKLEY: No, no. Thanks to people like Klaus Fuchs. I mean Klaus Fuchs doesn't

tell me what he tells -

newspapers. The newspapers didn't -

ELLSBERG: Not thanks to

knows much more about our defense setup don't doubt for a minute that the Kremlin

BUCKLEY: I have no doubt at all, I

than I do, for instance.

MR. BUCKLEY: Or to Jane Fonda.

the public. (laughter) One has only to list to Mr. McGovern or Mr. Nixon for

candidate. I think he had no occasion President - Thieu, in his last election, rezinvolved no fraud. He was the (laughter) speak a lie.

MR. ELLSBERG: May I say my ambassad have missed the irony, but I didn't. was probably accurate. Many people m Commonwealth of Massachusetts election said it was about as honest as t to observe that election and returned a professor from Harvard who went out the MR. BUCKLEY: I happen to think that to

5

here is the function of the executive defrauding the public for over 25 years.

MR. ELLSBERG: This was the intent of MR. BUCKLEY: Okay. Now the past, to spies.

definitely ought to exist and that it ought to be applied, as it always has been applied in

MR. ELLSBERG: Oh, no, I think that it be applied, as it always has been applied

or should it be repealed?

such as we have in Title XVIII ought to exist whether you believe that an espionage statute MR. BUCKLEY: But I do want to ask

election was ever won without defrauding MR. BUCKLEY: I happen to believe that no

has said, "We do not have an official secrets act as in England and the Espionage Act is courts. Every previous government counsel Congress. It's always the practice of the

secrets act?" lies behind your question, which I'd be glad not that act." The next question that I think "Should there be an official

on the books, provided it's not used. MR. BUCKLEY: You don't mind keeping it

such leaks.

that it has never been tried. There have been

There never has

disadvantageous to this country. Do you

less

MR. ELLSBERG: You're mistaken.

defrauding. He's this, he's that as MR. BUCKLEY: "He's a liar. ELLSBERG:

that inured to the enemy.

between your decision and the advantage

MR. BUCKLEY: Oh, my God, it ree

your whole moral bearing.

MR. ELLSBERG: Well, I would have to say

it is used quite frequently and has been used MR. ELLSBERG: Provided it's used the way an English transgression, but example. It's been used a lot. against people like Klaus Fuchs, for

MR. ELLSBERG: It's been used a lot. MR. BUCKLEY: Well, of course there was

"TALEY: Yes. All right, now, let me

BUCKLEY: Do you believe that SBERG: Never for a leak.

Supreme Court — and I speak as a layman MR. ELLSBERG: Well, the opinion of the tell me that they didn't take McCormick to ought to be taken to jail or not? Now, don't somebody who publishes in his newspaper iail because we went through that. Should that there's going to be a Normandy landing they or should they not take him to jail?

> (laughter) position.

homework on this in the course of this trial MR. BUCKLEY: In which prior restraint but as one who's been forced to do some against prior restraint in Near vs. Minnesota decisively went

were along with that that specifically said LSBERG: There was an opinion that

MR. BUCKLEY: I'm not talking about prior TUIPLISA

other matters might well be subject to prior sanctions. That was not an opinion restraint in addition to, perhaps, criminal that the sailing of troop transports and the

You. MR. ELLSBERG: That's what I just told

and a fortiori criminal sanctions. That was not concurred in by all the justices, but has

porto considered -

MAR. ELLSBERG: Well, even prior restraint

the person who transmitted the secret. Now, to the publishing agent; it would apply to MR. BUCKLEY: A fortiori would not apply

there were two statutes involved in

grant that it is disadvantageous to Hanoi to be invaded, there is a clear relationship papers. Now, it seems to me that if you

invaded, there is a clear relationship

heard me say so or suggest that?

therefore, you decided to release those

prosecution. If there were one, I would MR. BUCKLEY: Okay, now, let's explore was just to send such a person to jail. I'm and I would expect many people to feel it certainly expect it to be very controversial believe that it is really more disadvantageous That would be to Hanoi to be invaded by us, than to us?

not sure I disagree.

MR. BUCKLEY: No, no, no, no, no.

MR. ELLSBERG: — an evil and a wrong for

away information which you acquired espionage statute says, "You may not give newspapers and so on. The point is that the

MR. ELLSBERG: Pardon me. Have you ever secretly and which was given to you in confidence, with the intent of helping the

read the espionage statute?

when he lies to it.

wasn't in a position of speaking to the p many lies and, on some occasions I whave to say, wrote lies for other peo

participated in a great many lies, sh Branch for 15 years including the N Corps, but 12 years outside MR. ELLSBERG: No, I would say I specifically, working for the Execution

abandon, it's just that so many people qualify, is it? You don't use it MR. BUCKLEY: It's just that so that with abandon. The question -MR. ELLSBERG: Pardon me, I don MR. BUCKLEY: Oh, come on,

qualify for the label?

think that was a mistake. I did it in a actually, but I wrote lies for other peo

caused you to come to the decision to

1971, in New Haven, you gave a speech in

Nixon was going to renew his offensive release these papers. And in that speech, you which you recounted what it was that MR. BUCKLEY: On the 4th of March,

said that you had wind of the fact that Mr.

MR. BUCKLEY: - and that he might even go so far as to invade North Vietnam;

this country as much as -

precedent about wanting to sell more MR. BUCKLEY: I covered that McCormick

contrary, I'm the last person in audience, I would guess, to be in-

when I use the word "lie," and I do

MR. ELLSBERG: On the contrary.

(laughter and applause) excess of prudence -

Lyndon Johnson a liar, Now, this ma

MR. BUCKLEY: Now, you were clearly helping the enemy to the extent that you

saintly (laughter) and everybody else is a liar President of helping the enemy when he tells these general incantations of yours. You're MR. BUCKLEY: We can't get very far with accuse him of doing harm to this country the truth to the American people, I do MR. BUCKLEY: Now, Mr. Ellsberg that doesn't inform the rest of the world. say, there is really nothing that can be said revealing information to the public? As you MR. ELLSBERG: What is your attitude on you told the people up in New Haven was to abort what you understood, or so produced something the purpose of which to the public by the President or anyone else ELLSBERG: I don't accuse the

embarrassing you by quoting you?

MR. BUCKLEY: May I take the risk of

embarrassed, Mr. Buckley.

ELLSBERG:

<u>,</u>

200

combat operations were hardly at stake.

the sailing of troop transports or ongoing three years before it came out in the paper, MR. ELLSBERG: Since there was all of

and a defrauder and so on and so forth.

MR. ELLSBERG: You have not heard me say I was saintly.

many lies to the people of this countr MR. ELLSBERG: I have participa 've never called you a liar. I've neve MR. BUCKLEY: I've never called hir

MR. BUCKLEY: I'm aware that that is your

such information, I'm sure.

Pentagon Papers, which were the secrets that MR. ELLSBERG: You're aware that the

had to make a decision about, involved no

MR. BUCKLEY: Excuse me? Pentagon Papers, of course. MR. ELLSBERG: Pardon me. You're aware common distaste for the official secrets act this situation in terms of what seems to be a

that there's no such information in the

MR. ELLSBERG: Absolutely not. Have you suppose that you are more patriotic then MR. BUCKLEY: I have no reason to Richard Nixon,

MR. BUCKLEY: Yes, but the trouble reject that very strongly.

MR. ELLSBERG: So, there is absol MR. BUCKLEY; Well, I hope nothing invidious and, may I say, I and I participated in it with too great abandon by everyone who cause, but I think that lying was done

saying, "Look, everybody is a liar and liar, too" is that you sap the sting from

everybody. I worked for the Executive MR. BUCKLEY: Of course it is and that MR. ELLSBERG: It's still worse MR. BUCKLEY: Of course it is. else. It was worse. It has been worse, want to say was no worse than anywhere Pentagon, where I worked, I by no means Branch. The density of lying in the pretentious about that. My responsibility in the official office responsible as I, and I don't want to be

as a war criminal." say to college audiences, "I come before you doesn't surprise us conservatives. You like to

before, ever.

that you've written. I haven't heard you

MR. ELLSBERG: I don't like to say it. רי, כנץ: Well. (laughter) You do say

Stre

.J. this way: you force yourself,

g said that you invite them to certain distinction; i.e., that you

obser

MR. BUCKLEY: But the other people are MR. ELLSBERG: The distinction is that I'm war criminal in court.

absolution is in order.

therefore, contrition having been rendered

self-confessed war criminal and,

continuing criminals, right? But you don't use excessive rhetoric; you don't use invidious words. But you're a war criminal.

What does that make Lyndon Johnson? At

rast that, doesn't it?

MR. ELLSBERG: Oh, yes

A:R. BUCKLEY: And Walt Rostow, and MR. McGeorge Bundy and all those,

MR. ELLSBERG: Not you, as far as I'm AR. BUCKLEY: Not who? ird. That's the difference. JBERG: Oh, yes. Not you, so far

#R. ELLSBERG: 1 do make a distinction between the responsibilities of officials of MR. BUCKLEY: Well, but I wasn't actually executive Branch, I'm sure I disagree with Constitution but who aren't officials in the this government and people who also serve a eboring under that important function

you about many things, about the war.

to make you nearly as

the hot pursuit of criminality, it seems to me that international law ought at least to regards the definition of criminality and,

you know, is a very imprecise thing

5

(laughter)

cnow of no way

MR. BUCKLEY: Well, I've read a great deal official office — I wonder how many times you have heard me, Mr. Buckley. MR. ELLSBERG: My responsibility in MR. BUCKLEY: You've had a lot of

MR. BUCKLEY: Mr. Ellsberg, since we are the hour you'll understand it. mistaken impression. Perhaps by the end of MR. ELLSBERG: Well, perhaps you have a

MR. ELLSBERG: That's true authority than your own, you were associated with, with higher also war

criminal a fortiori makes all of the people

You to appear and to say that you are a war seductive acts of charity, I suggest that for engaging in very convincing and very

Secretary McNamara, Schlesinger, Galbraith, the whole lot. BUCKLEY: - General Lansdale,

MR. BUCKLEY: Are not what? to respect very much, General Lansdale, is President is not; my boss, whom I continue above the law in this country. I'm not; the MR. ELLSBERG: I think that's an important thing to say — that no one is not; the ambassadors I served are not. ELLSBERG: Are not above the law

> Impeachment removes from office someone not put anyone in jail, you're aware

Declaration of Independence was w observations: between the time that

BUCKLEY:

<u>Z</u>

Ellsberg.

broken in this country. Not only have illegal MR. BUCKLEY: Well, international law, understanding. I'm not a lawyer, acts been done, but actually acts that are MR. BUCKLEY: Who is above the law? have been done. I say that to the best of my considered criminal under international law And I think laws have been broken. ELLSBERG: I think laws have been

Vietnam,

speaking — not of me or of anyone else. prosecutions of any American, strictly opinions better than you, probably. I have not been on General Lansdale, but I think I do know his

more people in the dock, not more people in

"impeachments" in the Executive Branch. the notion of accountability don't want to add to that. I do think that that this war has put in jail wrongfully. war already and there are too many people jail. There have been enough victims of this

going to go to jail for 115 years. about that is that they know you're not

any campaign to start

think that what we need right now is not

makes it possible for everybody to smile MR. BUCKLEY: You see. . . (laughter) What MR. ELLSBERG: Or 115 years. MR. BUCKLEY: You would consider that who has abused the trust of the American less significant than 30 days in jail for people. I don't think Richard Nixon is the drunken driving? first to do that. The presidents I served, I

> wrote The Federalist papers to stree society at that point; the second is th in the hundreds which make English s and the England that we are talking

today totally distinguishable from E there were a series of reform acts num

absolute necessity for secrecy in the founding fathers took some pains when

being the only thing they want to do. The Ho Chi Minh wanted to move in to South difference between him and Ho Chi Minh is

given to him because they trusted his

decide that a guy who wants to tak

stuff that he has collected, th

things like foreign policy; they've

balances and they've got to try to completely free - has got to make a free society or a society that aspire

MR. BUCKLEY: — who have always wanted to get the hell out of South Vietnam — that

MR. ELLSBERG: Before.

pause, for instance, to consider people like Ho Chi Minh before pausing to consider people like General Lansdale —

MR. ELLSBERG: What are you sug

MR. BUCKLEY: What I'm suggesting free - there's no society ever that

MR. ELLSBERG: I don't want to debate

MR. ELLSBERG: Well, impeachment does Who do you have in mind? BUCKLEY: You come out for

MR. BUCKLEY: If they sentence you should get out in 35. MR. ELLSBERG: No, with good time, I ត

115 years, I will scream

MR. ELLSBERG: That's true

England you would have been put it

about 24 hours.

of England as a totalitarian society. there ought to be a position. We don'

it wantonly is somebody concerning

that he would not reveal it, and sim-

MR. BUCKLEY: But we don't think

improve, and they thought of the as a kind of government that they wan MR. ELLSBERG: The founders of improvements that they wanted to m Amendment as totalitarian society, but they did thin! Constitution didn't think of England a totalitarian society. Now, we want t permissive as we can be and the ques now permissive can we be one of

governors must arm themselves with and a people that mean to be their power that knowledge gives. A po "Knowledge will forever govern igno Amendment said about it, which was impressed by what the drafter of the MR. ELLSBERG: Yes, I am. of conducting foreign relations. aware of that particular incident?

the means of acquiring it is but a prolog a farce or a tragedy or perhaps both," government without popular informati

MR. BUCKLEY: Who said that?

MR. ELLSBERG: The drafter of the First quote, but I'll tell you one thing tha

MR. ELLSBERG: Is that the same Jefferson not all newspapers shouldn't be abolished. are, of course, aware that Jefferson, who is considered to be the patron saint of personal MR. ELLSBERG: I didn't want to embarrass Or is that a secret? liberties, at one point wondered whether or MR. BUCKLEY: James Madison, And you you - James Madison, MR. BUCKLEY: Won't you identify him? Amendment,

without a government, I may have reversed MR. BUCKLEY: Oh, sure. That's the same said that if ite had to choose between MR. ELLSBERG: 1 mean, newspapers one, which is not hesitate for a moment to take the newspapers without a government, he would government without newspapers MR. ELLSBERG: Is he the same one who tormer?

about the other Jefferson. one of the reasons why there's a whole book MR. BUCKLEY: Yes, which is, I suppose, the order of those.

re same one. (laughter) He is guilty and civilians, I think, played a much more MR. ELLSBERG: Oh, on the contrary, (applause) important role. MR. ELLSBERG: It provides the president with the power to be more than our introduced to the whole meaning democracy. The whole meaning president. historical judgment made – MR. BUCKLEY: I think you should relevant to what we're talking about. find that very funny. I think that's very very sad. I don't, and I'm sure you don't, publicly mentioned the slavery issue. That's

end, but we were drafting it in the Pentagon in fact. He didn't use this quotation in the sumething rather recently. I once had to get of power. I was very dismayed to discover or you or anybody else, was not immune to difference was that one had been in office Lyndon Johnson's first speech to Congress, a quotation from a Jefferson speech, for the temptations of power and the corruption Jetfersons - than I knew five years ago. The for awhite. Jefferson, not any more than me t happened - why there are two d. You see, I think I know better -SBERG: I think I know how that

> to run for president, Jefferson never again was doing that from the moment he began discovered recently in some reading that I dismayed me very much. That was that to feel compelled to defend the practices of The New York Times. You haven't heard me very well. MR. ELLSBERG: Mr. Buckley, I'm not here

democracy is that you go with the majority, subject to as many restraints as you can get to be very unpleasant. Now, it will be freedom is that it provides people the liberty hamstrung by, and the whole business about the majority itself to consent to be 9 9 5

MR

dicting himself.

who said later -

case that you have, for instance, back when so on who wanted to deceive the United you were saying it was mostly generals and the liberty that we have. It is, however, the MR. BUCKLEY: - after, I hope, your indictment has been assimilated, whether America has, on the whole, dealt well with

who published his (Ellsberg's) stuff justified." Or take Neil Sheehan - he's the hero, remember? Neil Sheehan's the guy MR. BUCKLEY: Civilians, sure. Take The New York Times, June, 1964: "The use of they can suhvert South Victnam is entirely the national economic and military resources to disabuse Mao and Ho of their illusion that

defeat in Vietnam, would amount to a Southeast Asia, because of an American MR. ELLSBERG: Not my stuff, your stuff. BUCKLEY: Sure. "The fall of

> process, on the basis of which it is agreed Sober to Phillip Drunk. I am saying that the Phillip Drunk to Phillip Sober or Phillip MR. BUCKLEY: I'm not here to dispute the question of whether we're appealing from

you do have it coming and going here. You MR. ELLSBERG: Pardon me. You know, extraordinary smugness which is a little and, in the course of doing that, you get to constitutes the membrane of pacification violent rhetoric of a kind that hardly them "war criminals." This is an exercise in legitimate things, is now used by you to call that a democratic country went to war in 1964 and 1965, intending to do perfectly

pretentious, I participated in my small way participated on a lower level and, not to be no means have I ever considered that, that I noble than they. When I mentioned that by unpleasant invidiousness; that I am more people I served with; that there is an a position that separates me from start with the assumption that I speak from

platform committee that shows us how documents, whether it's a Democratic MR. BUCKLEY: It is quite true that public not come to that insight. of themselves as liars. were for it and oppose it now - McGeorge it, like you. That's true. But the people who saying that a lot of people are opposed to Bundy would say he was a liar. You're MR. BUCKLEY: I don't think McGeorge MR. ELLSBERG: It is regrettable if he has Bundy would be an example - don't think the Vietnam war who at one point were for certainly think were wrong, then you in things that they were doing that immediately say that I am a fanatic.

MR. ELLSBERG: What would you cogoing before a closed session in the

saying, say, on election eve, "I ha lie, then you've got to find a wo distinguishes that from lying in the s

MR. BUCKLEY: If you want to cal

question of whether you would testif MR. ELLSBERG: Yes, I call it a li Havana. All right, now, is that a lie?

somebody told him there were 22 mi

to go back to the White House

call it a lie in any serious sense.

reached a deal with Hanoi and they i

That's different from the other, isn't i to end the war tomorrow." That i

speaking in closed testimony to peop

the kind of abandon with which you "lying" if one wants to use the word with tomorrow under President McGovern, are we're going to reach eudemonia day after

White House because he had a cold,

the

claimed had led to the first attack.

and that attacks which the North Viet

Tonkin Gulf - were entirely unpr

on the night of the alleged attacks and telling them all that the so-called were all cleared for classified intor

- which I followed in cables in the Pe

was admitted, were not ours, that the

the Victnamese, that we had on

are

Everyone lies," I think some govern say - if I may quote you elsewh MR. ELLSBERG: I think, again, to have it both ways. You, I believe think governments lie. All governments

part of the public rhetoric," that

MR. BUCKLEY: It depends of definition. Now, when Jack Kennedy had a cold and had to go back to the word "lying"? would you regard as a precise use to bring us into the high lying densi more than others and I regret any

House, he didn't have to go back

you regard as a precise use of the "lying"? MR. ELLSBERG: Pardon me. What would word

MR. BUCKLEY: If you simply say, "It's a

reflect that God is just and that His justice will not sleep forever." He didn't use that

MR. BUCKLEY: I know. All right, all right.

MR. ELLSBERG: I've said things equally strategic disaster of the first magnitude."

oolish

remembered it being there. The quotation is, and we went over to the Jefferson Memorial

off the wall.

"Indeed, I tremble for my country when I

which we controlled entirely. They Washington. entirely American

were American operations, 100 p that we approved of them, that we t mildest information about those oper

Vietnamese had that right, when in fa

operations, of which we knew every d operations,

Accompanied by a Pentagon colonel, but we don't follow them in any d later was released to the Senate, when who, at that time, in closed testimony about such operations said, "Yes, they What would you say of Secretary

which specified how many 81 mm, mortar number two man in the State Department rounds would be dropped in the Cap Mui the biweekly schedule of those operations and to McGeorge Bundy in the White House, disposition of American troops?" "Oh, no, question he was asked by the press was, absolutely none at all." There it was, right in American troops to Iceland. The first the briefcase. "Did you make any promises involving the

call it something else. MR. BUCKLEY: I call it something else, I say that that practice -

would call it unconstitutional and I would MR. ELLSBERG: I would call that a lie. I

MR. ELLSBERG: What did you call it at the

this time that was the detail in which those were followed. bombing targets in North Vietnam, but at

MR. BUCKLEY: Shall I try to answer you?

though, at that time, it was the only war we use of the time of the secretary of state shells would be fired. This was a rather petty

Later, he devoted himself to picking

kidnapped off fishing boats, how many Ron estuary, how many fishermen would be

had, (laughter)

MR. ELLSBERG: But I'm sure you had an

right?

AR. ELLSBERG: Yes, I -

MR. BUCKLEY: You did ask me a question

MR. E.

ጋረናቶ**G: No, I just want to get** the word.

whatever it was at the time.

MR. BUCKLEY: Well, I was six years old or

YOUR

didn't blow those papers. MR. BUCKLEY: But General Wedemeyer MR. ELLSBERG: What would you have MR. BUCKLEY: Well, I would have had an opinion if I had known what was in the called it when you were six?

right? I would call it one of two things MR. BUCKLEY: And shall I answer it? You asked me a question — what would I call it,

laughter) And maybe I can persuade you

upon the

circumstances,

hat the distinction is defensible.

depending

when we were six, you and I, that we may MR. ELLSBERG: We knew some things have forgotten.

MR. ELLSBERG: The context is a historical

one. Feel free to disagree with it.

promises; I'm talking about statements of MR. ELLSBERG: I'm not talking about whoever, there are no heroes. There are no McGovern or Churchill or Roosevelt or lives in the real world, one recognizes that MR. BUCKLEY: It is technically a lie. If one Nixon promises something,

vould à

Was a

was to provide for the common defense and under the Constitution of the United States MR. BUCKLEY: Yes. If I felt that my job

3, of the commander in chief, I

OW the!

oom, I would lie. (laughter and applause) If

Juard the secret. If you were in the thought the people I was speaking use all or not all, depending upon

nowever, I had absolute confidence that you

rould not, that you would not -

you would do it I were not in the room. 'R. ELLSBERG: You are going to say what

a politician that none of us has ever heard MR. BUCKLEY: Name me an effective politician who hasn't lied in the sense in which you are using the word and you name

fishermen. There was no secret from North whose 81 mm. mortar rounds those were. that once again the North Vietnamese knew negotiations requiring secrecy. You notice They knew who was kidnapping You mentioned

diplomatic

diplomatic business except with secrecy believe that it is impossible to conduct common friend Jefferson said, "but bind Constitution." I agree with that, but I also more. "Put not your faith in men," as our MR. BUCKLEY: I couldn't agree with you that our government should not be designed powers is based entirely on the perception to be run by angels, because it won't be. MR. ELLSBERG: I think the separation down by the chains of the

MR. BUCKLEY: Yes, I'm all

ó

Absolutely, yes.

about - August of 1964 - we are again at a thing is that in the occasion we're talking MR. ELLSBERG: You know, we're talking about a particular incident. The interesting point where the secrets were secrets from why you're here - whether or not you are under certain circumstances. That's really secret and what shouldn't. the person who decides what should be

just finished telling and say, "Therefore, the follow. A lot of people tell this story you MR. BUCKLEY: Incidentally, that I don't could name, including -Tonkin Gulf Resolution. So any number you few of them to join and to vote against the might be lying, which might have induced a fellow senators that the Administration Morse and Gruening could not convince their

point relating it to what we were saying like The New York Times and Neil Sheehan MR. ELLSBERG: I was about to make the them take South Vietnam away without and Hanson Baldwin saying, "We mustn't let was voted under the benediction of people whole network of treaties." suffering the possibility of a collapse of our imagine four people voting against the exactly the right, thing had been said, I can't Tonkin Resolution, The Tonkin Resolution Tonkin Gulf Resolution is invalid." But if

senators to such a degree that Senators

pity, and that, under the circumstances especially encouraged by liberals, which i rhetoric among our politicians that is done in the context of a kind of lov

lot more lying than Madison and Hamilt MR. BUCKLEY: Okay, suppose we agree Papers is not too good. certainly would - that there's a hell o

international policy. Let's agree on th had in mind as necessary for the conduct

Perhaps you will join me in agreeing that t

considerable detail. By the way, I die available now. The account in the Pentag President's War, it's called. It lays this ou book on this, on investigative reporting. Anthony Austin has written an excell MR. ELLSBERG: You're mistaken, know all the facts at the time, but they

intentions of the flotilla in question.

and that we did not want to divulge to cracked their code at that particular mom about this than anybody, that we

Senate the fact of our having done so,

that that code showed the belliger

MR. BUCKLEY: Mr. Elisberg, you

know, I assume, because you know m

was protected from the Senate, not for that did not know that. Again, the

what you would call, the enemy.

whole, they promise more "free" everythi instance, than that of conservatives. On t MR. BUCKLEY: I think that the rhetoric MR. ELLSBERG: I don't know if you do MR. BUCKLEY: - we should be much me liberalism is much more redemptive, t not. You do subscribe to that theory? MR. BUCKLEY; Don't you think so? MR. ELLSBERG: That's a theory that censorious, MR. ELLSBERG: I don't regard Preside Nixon as a liberal.

from the Pentagon Papers that I didn't kno MR. ELLSBERG: What I think I learne and so on and so forth.

their

difference to the amount of lying which before was that it hadn't made mus

party was in power, which president han held; it was not a matter of personality.

had to conclude it was a matter of role

men in Congress to monitor the imperfect men in the White House and the imperfect men in the courts.

was sending those people. It was the Senate were sending them against the country that the intelligence patrol, by destroyers, they torpedo boats against our DeSoto patrol Vietnam. They knew that when they sent

low, it's true that Roosevelt, for instance iravel if United States security is involved ells the truth in the presence of Senator ny president ought to be impeached who enator Gravel, for instance, it seems to me FR. BUCKLEY: Now, we've got people like

way, and it's time to put some imperfect politicians have been all too effective in that

MR. ELLSBERG: Yes, and I think our

beneral Wedemeyer at the time, was the deal e made with Winston Churchill to send e came back and in his briefcase, carried by

Congress - in large past, the fact that

MR. BUCKLEY: Oh, no, no, no. I'm not talking about the individual guys in government. I'm talking about what the MR. ELLSBERG: Liberals and conservatives surrounding situation is in office both lied.

going to do everything," as I said, "for you free. We're going to have freedom now. MR. BUCKLEY: What is the surrounding situation that encourages lying? The by the public of real looseness on the part of people who run for political office. "We're surrounding situation is a total acceptance This to have an end of poverty and not

sucrecy is what has made this lying possible MR. BUCKLEY: No

acceptance by the public of executive would you really disagree - that the

ELLSBERG: What if I were to say -

... riness" and so forth.

I could name - the number of troops to go have been possible if officials like me had some of those lies. I don't think that would which we lied and lied and lied. And I wrote had just signed in the spring of 1964, about of fact. I don't know how the lying could lying could have been done. I'm not talking to Vietnam on a paper that the President have been done about matters of fact, which about rhetorical promises that aren't matters MR. ELLSBERG: I don't know how that ise lies and I don't think I was right in Department of Defense as to protect so obedient to the regulations of

MR. BUCKLEY: Mr. Ellsberg, whatever else

Your role in history is -

MR. ELLSBERG: Do you think I was right,

Nader-like, which of those you consider not conversations in order to relate to us, sort of MR. BUCKLEY: - I don't think that the United States public is prepared to but those criteria do not, in my judgment What we need, presumably, is other criteria, commission you to be privy to all executive to correspond adequately with the truth.

justify civil disobedience, and the question

whether you committed an act of civil MR. ELLSBERG: If they interpret it as civi disobedience mutatis mutandis.

 non-collaboration, will send Tony Russo and me to prison and we will go. If they I will go to prison, whether for 115 years or decide the law was broken, that will settle it. think that we will be discussing that a great jury, like most juries faced with such a disobedience. If it were, I believe that this deal in court. It's not an act of civil that it is that and I believe they're misled. I disobedience - I suspect, by the way, that Š in draft resistance and

broken in this case. If I felt that it had been, of the trial, isn't it? then of course I would have pled guilty. the law is. I believe the law has not been ELLSBERG: You've been asking what

MR. BUCKLEY: Well, that's the whole idea

were published, saying that the papers proved chief negotiator, the day after your papers

that we were the aggressors in this particular

summer you were talking about the fact that you expected to go to jail. MR. BUCKLEY: Well, as I remember, last

didn't you? MR. BUCKLEY: You missed a great deal, Constitution, at that point. I'd worked for about the law or, if I might say, the MR. ELLSBERG: Yes, I didn't know much the executive.

executive and I didn't think the Constitution MR. ELLSBERG: No, I'd worked for the applied to me.

MR. BUCKLEY: Yes, you proved that.

(laughter and applause)

MR. ELLSBERG: In practice, it did not, as the practice has been for the last 25 years. I Hanoi know a lot more now than it used to inevitably the question we raise is, does did before, not only as a defendant. before, I think I know something of why it know not only what the Bill of Rights says, is what it is and I value it much more than I which I really had no occasion to look at well as from the Pentagon Papers, I now think I've learned a lot by this experience as BUCKLEY: Yes, and I suppose

> suspect. We kept them informed of our will tell you, correctly, that they learned MR. ELLSBERG: No, not as much as this audience. Not as much as the public. Hanoi very little from the Penatagon Papers, I

MR. BUCKLEY: Yes, it makes it difficult to account for the speech given in Paris by their American public not know. Those were the doing and it was also necessary that the the enemy know quite well what we were intentions to homb, to blockade. We felt that was necessary, in a nuclear world, that two requirements of policy.

credible enough to Americans, given the don't think they felt that their word was media and our President and so forth. MR. ELLSBERG: Proved to Americans. I

MR. BUCKLEY: Miss Evans.

MISS EVANS: Mr. Buckley, I'd like to raise the question of the basis of the lies that are under discussion here. You referred to civil disobedience, which kind of astonished me executive regulation. attention from a conservative would be an excessive because the last thing I would have expected to lies which are based on

MISS EVANS: The Espionage Act does not, the one I'm talking about. MR. BUCKLEY: No, but they're not, not

as Mr. Ellsberg pointed out, specifically apply as an official secrets act. In the MR. BUCKLEY: You're incorrect. absence of the executive -

MR. ELLSBERG: On this, I'm an expert.

MR. BUCKLEY: You're incorrect

MR. ELLSBERG: No.

section 201 is a law duly passed by Congress. MR. BUCKLEY: Title XVIII, section 794, about executive orders. It's not an executive order. You're talking

MR. ELLSBERG: Section 794, of course, is

carefully restricted to such things as light of the First Amendment, they a to official secrets acts in our country acts, you might know — things that a MR. ELLSBERG: There are official Espionage Act, I gave her the whole b (laughter) mention it? MR. ELLSBERG: Then why d MR. BUCKLEY: It's not involved, no not involved in my case. BUCKLEY: She asked for

see two questions there. One is, do the other officials could not speak of it i about policy - so that I, as an offi MR. BUCKLEY: There are those of protected by the First Amendment. deception, however you want to whether it can be even constitution. Papers, or alleged. What's at issue none of which is involved in the Pe wives, to their neighbors, to Mr. Buch information - about misgovernment, of public discussion an enormous r Madison had in mind when they wa the kind of information that Jeffers Jack Anderson or whoever. This is, I directive to operate to put outside the codes, nuclear weapons

to me, as a conservative, that you wo defending that kind of lawmaking, w without these purely executive regul usually anathema. there. And, therefore, it seems very : the legal material for a trial would Ellsberg on trial. It's surely obviou the official secrets act that has pi obvious to me that it is the combinat MISS EVANS: Yes. It certainly scen didn't mean to interrupt you, sorry. have the right, unilaterally, to decid the regulations of classification actin they shouldn't withhold? But any the right to withhold? The other is, o

prosecute and this I don't deny, but grand jury, there is an executive decis Now, always when the decision to preis made, even though it is mediated not, as I say, passed by the chief exe was indicted on 15 counts of laws that At least, it's not obvious to me. Mr. E would be surprising; but it is not o MR. BUCKLEY: Well, if it were obvi

true in any case.

telephone machine, which apparently there had been no statute for before, and it was an of someone putting ice nickels into a cases in which the executive began to take executive interpretation, respect to German criminal law. It was a case on an ex post facto judicial status with illustration - which was one of the first case in Nazi Germany - I'm not using this in any sensational sense, but purely as an that. It seems to me analogous to the famous MISS EVANS: I meant much more than

statutes would cover that generically. Truly healthy societies don't have a law that says BUCKLEY: I should, think the fraud "threeze nickels and put them in the

way, in Mr. Ellsberg's trial, the Espionage Act is a sound, basic part of our law, but the one stronger than that weak link. In the same government. Actually, the chain was no chain of evidence with which this person link in the chain than which the chain is no promulgated from on high by the German went to trial was an ex post facto law kind of as a building block. But there in the criminal laws. They used the fraud statute executive the right to make ex post facto first case in which they arrogated to the because it was a convenient case, one that yet, instead of simply extending the fraud hard to defend ice nickels — took this as the few people could argue with - I mean, it's Mino EVANS: That is completely true and these security regulations which the German executive, purely

is very reassuring because if it turns out to sure the Supreme Court will throw it out. be an ex post facto prosecution, I'm quite UCKLEY: Well, I think that analysis

a lawyer. I guess you probably are by now, but I have not widely heard the constitutionality of the challenge to Mr. Elisberg criticized. He's defended on a lot of MISS EVANS: I wasn't saying it was ex post were. We simply read it differently. I'm not like me would not defend it if that is what it MR. BUCKLEY: Well, a good conservative aghast that a good conservative like you an integral part of the Ellsberg case and I'm facto. I was saying that executive decree was would defend it.

> grounds, a whole lot of grounds - at least enough to get him off - but not one of you say it is. Mr. Rohrabacher, them that I know of alleges that this is what

question, MR. ELLSBERG: The constitutionality is in but not precisely on those patched

MR. BUCKLEY: It's nicely together, by the way. I enjoyed it.

By the way, you didn't voice any opposition Vietnam was the freest country in the world. questions. The first is to Mr. Ellsberg. Last conference with your co-defendant, Mr. Federal Courthouse, you had a press week on the steps of the Los Angeles pointed questions and two rather specific MR. ROHRABACHER: I have two rather On the steps, he said that North

arguments like that in court, I'm sure — that MR. ELLSBERG: I'm going to be hearing failed to speak up in time.

during the press conference, that I could see, to that analysis. My specific question to

government? you expect from the North Vietnamese considered secret, what punishment would you released to the public papers that they question to you, given that as a premise you were a citizen of North Vietnam and ROHRABACHER: **₹** specific

Vietnamese in the South it differs strongly from the government we Vietnamese government and, in that respect, government of North Vietnam self-determined country. I think that the Vietnam is a free country. I think that it's a MR. ELLSBERG: I don't agree that North picked and supported õ

government was a German government BUCKLEY: Well.

MR. ELLSBERG: Yes, and, again, not free.

freedom, I would not like to see us imitate or go in the direction of the unfreedom of principle in the world. On the question of comes in here. There's more than one colonialism, the issue of self-determination MR. BUCKLEY: So what does that prove? ELLSBERG: Well, the issue of

> in those countries, but that he saw other things to admire in them, hope he was not attracted by those qualities President Nixon has recently been visiting. speech that exists in the countries that

MR. ELLSBERG: Oh, on many things.

have a disagreement with your co-defendant on the issue of whether North Vietnam is

MR. ROHRABACHER: Well, you obviously

opposed to the North Vietnamese regime, is trying to prevent that in this country? why are you then against Mr. Russo, who information for the people and if you are authoritarian regime is the manipulation regime and one of the main aspects of an consider North Vietnam an authoritarian my question for Mr. Buckley. If you do MR. ROHRABACHER: Now, that leads into

MR. BUCKLEY: I'm not.

MR. ELLSBERG: Ellsberg.

point with Mr. Ellsberg that sorry. Obviously, you've been arguing here a MR. ROHRABACHER: Mr. Ellsberg. I'm

was formulated by Plato. who cross them when they're red. How can Vietnam has red lights and arrests people MR. BUCKLEY: If I may say so, that's preposterous. It's like saying, "North you defend red lights in America?" It's the fallacy of the compound. The distinction It's like saying,

members and if right here I saw you arguing also say, you know, Hitler killed opposition agree with that analysis. I mean you could MR. ROHRABACHER: I'm sorry, I don't members in the United States and then you that maybe we should kill opposition because they stop people from crossing red lights in Germany"—I mean that wouldn't make any sense. "Well, that's a fallacious argument

MR. BUCKLEY: No, but -

authoritarian governments do the same were not secret and the public should have a Mr. Ellsberg has said that these documents we've labeled these documents "secret" and question. Here the government is saying that MR. ROHRABACHER: I'm asking a specific thing. Mr. Ellsberg is trying to prevent this õ 3 saying

> here. Yet, you are defending this spe authoritarian characteristic from happe

different in mind. of an old woman and an oncoming doesn't distinguish the other and make one and makes it permissible and that w certain cases, that which distinguishes thing. The purpose that motivates each i that they have something two is not that they are both pushers, pushing, but what is remarkable about way of the bus and those who would her out of the way of the bus. They're t There are those who would push her into impermissible. I've used before the exar two people are involved doing the s wrong because your focus is on the fact MR. BUCKLEY: No, look Your for comple

drafted by the Pentagon, so far as I know to try to defend the free world to the ex hat we dimly understand the free world. The purpose of a secret memorand

laughter)

MR. ELLSBERG: Then you have not the Pentagon Papers.

difference between life here to get up laugh over some such statement in, North Vietnam believes that there isn't a discern BUCKLEY: I invite anybody v

arguing about giving people information. all of the information and here you make any pretense — about giving the per difference is that in North Vietnam t government, but there's a difference. MR. ROHRABACHER: I agree. I agree make no pretense - I don't believe t North Vietnam 2 an authorita

MR. BUCKLEY: No, they hold back information except what they want they have in North Vietnam. ROHRABACHER: But that's &

MR. BUCKLEY: There is a free press you're saying here. That's what they Obviously, this is what the conflict is.

MR. ROHRABACHER: Not if you everything I get is classified top secret free press. If I don't have the informatio have the information. I'm a member of The New York Times people —

can have a free press and certain things which are, nevertheless, withheld from the a jerky point (one person applauds) You no free press in England, and you're making MR. BUCKLEY: Then you're saying there's Thursday of the second of the

categorically that if it were troop movements We're not talking about troop movements, and things like this, this would be wrong This is not a violation of the free press. MR. ROHRABACHER: I think that Mr. in this discussion, has stated

have complete is I who makes the decision and I ought to it is to be kept completely confidential," It give it to you, but on the understanding that and such a situation." And I say, "Okay, I'll consider might be a possible response in such subcerencies that we haven't discussed and I'll' to one. Suppose I'm working for MR. BUCKLEY: There are any number of I confidential memo on what you sberg and he says to me, "Look, I sovereignty over

MR. ELLSBERG: Are you an official of the

particular paper.

MR. BUCKLEY: Let's say I'm a consultant,

by the taxpayers, obviously the taxpayers MR. ROHRABACHER: If you're being paid your consultant, and you ask for this.

should have a right to see it.

MR. ROHRABACHER: Well, it depends on change their senators, but they don't have a have a right to change their president, to advice belongs to everybody. The people else, and there is no reason to suppose that right to stick their ear in every conversation. personal advice on the economy or whatever to call up somebody and ask him for his States is perfectly free, so is a senator, vy incorrect. The President of the "...LEY: That's not right. That's

Even public officials are entitled to a certain anyount of privacy. Professor Stiehm. MR. BUCKLEY: You're wrong. (laughter) labor, then they have a right to know. they buy it with their money and their

what you mean by "belong to." I have a feeling that if people pay their taxes and

> private about their hand; but, you know, not when they're talking about documents that certainly they have a right to be private with are affecting the lives of the democratic friends, to play poker with the boys and be their wives, with their families, with their MR. ROHRABACHER: But not in their when they're on the job. I mean,

authoritarian tactics. and it seems to me you're defending regime, but, Mr. Buckley, I turned around defending what I consider an authoritarian him I asked because I was afraid that he was Actually, the first question I asked BUCKLEY:

misunderstand. Well, maybe you

judgment very relevant to our trial. judgment of freedom, in my opinion. It's a died in the liberation movement. That's a why so many people have died for it and well-supported. This is the explanation of judgment which is not the same as a that that is a very popular government and referring. I think, specifically to evidence more than most people in this country. He is defectors and prisoners of war, he knows MR ELLSBERG: By the way, since Tony Russo's opinion has been mentioned here well. Having studied the North Vietnamese I think I know what he was saying quite

wrong way, and I said, you know, "What do you mean?" And he said, "They don't keep into his office and you talk to him. vice president of North Vietnam, you walk I've got this on tape. "They don't keep secrets from the people in North Vietnam." co-defendant. I asked Mr. Russo what he disagree with you because he is your meant because it sort of rubbed me the ROHRABACHER: I'm sorry to If you want to see the

name it, South Vietnam, the police state where I lived for two years and Tony Russo did, Russia, I am not, by the way, approach the government of Cuba - you want to see this country, in that respect because they have very good secrecy. I don't they lie more than they would otherwise exclusively really, by an executive branch creditable things can be said about them Like other governments that are dominated have lied very often. By the way, very many ELLSBERG: The North Vietnamese

> no worse than what the Russians did country, and we've heard two presidents do this, excuse our behavior by saying that it's Hungary and Czechoslovakia. at all pleased to hear the President of the

MR. BUCKLEY: Professor Stiehm.

of them, not a few memoranda, and because The New York Times lent you status by and, therefore, inflate the whole notion. with you to take legal action against you general cooperated or perhaps conspired publishing them for you, because you took a no-no's, and because there were 47 volumes of your success in making this information documents were secret and, therefore, visible. You were successful because the that you really have been indicted because how to interpret certain code words, but critical reader who was concerned and knew Papers could have been (crreted out by a because virtually everything in the Pentagon because you released secret information, impression that you were indicted not at all risk, because the then attorney STIEHM: It's always been my

you referred to here, I mentioned that

Specifically, in the press confe

June 13, when the Pentagon Papers beg

MR. BUCKLEY: You may blush, Mr.

so successful in achieving visibility in that PROF. STIEHM: I wonder, since you were

before with attorney generals. MR. ELLSBERG: I've been in conspiracies

MR. BUCKLEY: And with panelists?

MR. ELLSBERG: Well, you mentioned public. Do you have any strategy? current air war more visible to the American ideas at all about how we might make the PROF. STIEHM: I wonder if you have any

a very serious one. Here is one where the media, I think, have collaborated, along with a collection of jurors now come before the Vietnam. I think that's so serious. I've heard years and our current bombing in North to cloak our operations in Laos over the doesn't ask questions, in allowing invisibility Congress, along with the public which that of the media and of the public and it is not just the President's responsibility but problem you mentioned is one which is now press conference that we had. I think the

> my surprise, they agree with wha court and be asked their opinions cwar, and a number of them have said,

depends, of course, on people reporti success in communicating that because ending, but I find that I don't have one, to point out that the war is far attorney general, pointed my way, lik reason, I miss very few opportunities w they have that misconception. For not only the President's responsibility President is doing now - namely, endi have a television camera, thanks to I'm not happy to hear that, ar

MR. BUCKLEY: And he's taken 375,000 American troops. equivalent of a Hiroshima bomb, 20 equivalent to the tonnage that we dro in all of the Korean War. That's in th 12 or 13 months, which means tons, every week. half the tonnage in all of World War II tons of bombs on North Vietnam. T President Nixon has dropped one m be published by The New York

MR. ELLSBERG: That's true

Ellsberg. Sorry, we're off the air. MR. BUCKLEY: I say it was worth it. one person applauds) Thanks,

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Mr. Feit .

Mr. Boker .

Mr. Callahan Mr. Cleveland . Mr. Conrad .

Mr. Miller, E.S. Mr. Purvis ....

ATTN: DID

Mr. Sayers \_ Mr. Walters .. Tale. Room -

Mr. In av . Mr. Athistrong .

Mire America

FROM LOS ANGELES (105-27952)

Ms. Frover -

MC LEK, SIO.

AT HEARINGS BEFORE JUDGE BYRNE. H. S. DISTRICT COURT . LOS ANGELES. DECEMBER FLEVEN INSTANT. DEFENSE RENEWED MOTION FOR MISTRIAL. DISMISSAL OF JUPY AND WAIVED RIGHTS TO DOUBLE JEOPARDY. MOTION GRANTED AND MISTRIAL DECLARED. DEFENSE EXPRESSED OBJECTIONS TO PANEL FROM WHICH NEW JURY WILL BE SELECTED. BYRNE HAS INSTRUCTED THEM TO FILE MOTIONS IN THIS REGARD NO LATER THAN DECEMBER IWELVE-NEXT. DEFENSE BASES THEIR ORDECTIONS TO PANEL ON STATEMENT AUGUST ELEVEN LAST BY CHIEF JUDGE STEVENS OF U.S. DISTRICT COURT AT LOS ANGELES TO A PROSPECTIVE JUROP ON PRESENT PANEL THAT ATTORNEYS AT ELLSBERG TRIAL WERE MAKING A BIG THING ABOUT LACK OF MINORITITES SERVING ON JUPIES.

THAT'S A LOT OF NONSENSE."

DEPARTMENTAL ATTORNEY DAVID NISSEN STATES BETWEEN CHEIF JUDGE AND PROSPECTIVE JURORS WHO ARE SEEKING EXCUSAL ARE MADE IN PRESENCE OF OTHER INDIVIDUALS SEEKING 3 DEC 15 1972 FXCUSALS BUT NOT WITHIN THEIR HEARING. THE COURT TRANSCRIPT-END PAGE ONE

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LA 105-27952

PAGE TWO

FAILED TO INDICATE THIS, WHICH WAS PROBABLY AN OMISSION BY THE COURT REPORTED.

BYRNE INSTRUCTED GOVERNMENT TO HAVE NEW AFFIDAVIT ON ELSUR SUBMITTED BY DECEMBER FIFTEEN NEXT.

ONE HUNDRED WILSHIRF BOULEVARD, LOS ANGELES, ADVISED DECEMBER
FLEVEN INSTANT HIS OFFICE RECEIVED TELEPHONE CALL ON DECEMBER
FIVE LAST FROM ONE BRUCE ELGIN OF ELLSBERG-RUSSO DEFENSE
STAFF REQUESTING THAT THEY BE ADVISED IDENTITIES OF AGENCIES
WHO HAVE MONITOPED TOLL CHARGE PECORDS OF RESIDENCE PHONES OF
FLLSBERG (FOUR FIVE SIX TWO FIVE SIX ZERO) AND RUSSO (FOUR FIVE
NINE TWO EIGHT THREE ZERO) DURING PERIOD MAY THROUGH SEPTEMBER
NINETEEN SEVENTY TWO AND DECEMBER NINETEEN SEVENTY ONE THROUGH
NOVEMBER NINETEEN SEVENTY TWO, RESPECTIVELY. ELGIN WAS ADVISED
THIS INFORMATION WOULD ONLY BE FUPNISHED UNDER SUBPOENA.

NOW IN RECEIPT OF LETTER SIGNED BY DOLORES DONOVAN, WHO
IS ON DEFENSE STAFF, REQUESTING GENERAL TELEPHONE COMPANY'S
REFUSAL TO PROVIDE THIS INFORMATION BE PUT IN WRITTEN FORM.

ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE DECEMBER

DEPARTMENTAL ATTORNEY NISSEN TELEPHONICALLY ADVISED OF INFORMATION PROVIDED BY WALLINE.

END

Mr. Callahan THE PROPERTY OF STREET Mr. Cleveland Mr. Conrad . Mr. Delbey -Mr. Gebhardt -Mr. Jenkins -NR MIS LA CODE Mr. Marshall TELETYPE Mr. Miller, E.S. 996 PM NITEL 12-12-72 Mr. Purvis -Mr. Soyars . TO ACTINE DIRECTOR (65-74060) ATTM: DID Mr. Walters . Tele. Room -Mr. Kinley -FROM LOS ANGELES (125-27952) Mr. Armsuong Ms. Herric -Mrs. Levenar MC LEK. SIC. JUDGE BYPME. U.S. DISTRICT COURT, LOS ANGELES, DISMISSED JURY DECEMBER TWELVE INSTANT. BYPNE SET MEXT HEARING FOR DECEMBER FOURTEEN NEXT TO HEAR DEFENSE MOTION ON INADEQUACY OF NEW GOVERNMENT PILL OF PARTICULARS. BYRNE ALLOWED DEFENSE UNTIL DECEMBER FIFTERN NEXT TO FILE NEW MOTIOM CHALLENGING JURY SELFCT IOM. NN DECEMPER THELVE INSTANT GENERAL TELEPHONE COMPANY, LOS ANGELES, ADVISED TELEPHONE NPUBLISHED NUMBER. SINCE NINETEEN SIXTY EIGHTAND NO RECOPD OF TOLL CHARGE MONITORING AT ANY TIME. LOS ANGELES INDICES NEGATIVE REGARDING KNOWN TO DEPARTMENTAL ATTORNEY DAVID NISSEN C-32 PEGAPDING TELEPHONE NUMBER SOID THIS IS ASSIGNED TO ANTHONY RUSSO, THO SEVEN ce to ADG, 150 END PAGE ONE 9 7DEC 181972

HOM FOR ALL OF THE CATION

Mr. Fen --

LA 105-27952

PAGE THO

TWO AND A HALF ENTRADA DRIVE, SANTA MONICA, AND TOLL CHARGE.

RECORDS WERE MONITOPED BY LOS ANGELES OFFICE RETWEEN APRIL AND

SEPTEMBER NUNETEEN SEVENTY ONE BUT NOME SINCE AND LOS ANGELES

RECORDS VERIFY.

STAFF, ADVISING HER HIS COMPANY'S POLICY IS TO NOT REVEAL
INFORMATION OF TYPE PEOUESTED EXCEPT UNDER SURPOFNA AND HE SAID
HE WILL KEEP LOS ANGELES ADVISED OF OTHER CONTACTS BY DEFENSE.

ADMINISTRATIVE: PEFERENCE LOS ANGFLES TELETYPE DECEMBER FLEVEN LAST.

DEPARTMENTAL ATTORNEY NISSEN TELEPHONICALLY ADVISED OF INFORMATION PROVIDED BY

ING FRI HO CLR

COMMUNICATIONS SECTION Mr. Cleveland . Mr. Conrad . Mr. Dalbey . Mr. Gebhardt . NB GSI LA CODE Mr. Jenkins . Mr. Marshall \_ 737 PM MITEL 12-14-72 GLD Mr. Millet, E.S. Mr. Purvis Mr. Soyars . ACTING DIRECTOR (65-74069)ATTM: D I D FROM LOS MAGELES (105-27952) Mr. Armsmong . Ms. Fierway . Mit Leenar . MC LEK, SIC. JUDGE W. M. BYRNE, H.S. DISTRICT COUPT, LOS ANGELES, HEARD DEFENSE ADDITIONS ON DECEMBER FOURTEEN INSTANT RECARDING INADEQUACY OF NEW GOVERNMENT RILL OF PARTICULARS. BYPME RULED COVERNMENT SHOULD SET FORTH SUBJECT MATTER TO BE TOUCHED UPON IN ALL VOLUMES OF PENTAGON PAPERS AND THE CURTOV DOCUMENT. BYPHE WANTS STATEMENT FROM ASSISTANT H.S. ATTOPHEY STATING

LEDERAL BUREAU OF INVI DICATION

ALL OVERHEARINGS. FLSUP OF DEFENSE ATTORNEYS AND THEIR STAFFS. ARE IN HIS POSSESSION.

BYRNE SET DECEMBER MINETEEN NEXT AT TEM A.M. FOR COURT SESSION ON PENDING MOTIONS. WITH PROXIMITY OF CHRISTMAS AND NEW YEAR HOLIDAYS HE FEELS THAT SELECTION OF JURY WILL NOT

COMMENCE PRIOR TO JAMMAPY THREE NEXT.

END

FBI VDM MASH DC

P.R

REC-32 to applied

Mr. Baker ..

Mr. Callahan

DEC 18 1972

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Airtel To: SAC, Sacramento 12/18/72 ST-105 For the Acting Director, FBI From: W. Mark Felt
Acting Associate Director (65-74060) - 4/0% . W. Mark Felt MC LEK NATIONALITIES INTELLIGENCE SECTION Chyford V. Heiltsie Colf. For information of recipients, Bureau is in receipt of letter from requesting he be contacted regarding case of Daniel Ellsberg in connection with testimony of Enclosed for Sacramento are single copies of Boston airtel and letterhead memorandum (LHM) dated 9/27/72 and San Francisco airtel and LHM dated 10/30/72 which set forth information regarding investigation and interview of or information Sacramento, based on data set forth in enclosed LHMs, offices were instructed not to pursue the information alleged by any further. Sacramento should interview or any pertinent information in his possession regarding Elisberg and his associate. Anthony Joseph Russo, Jr., currently charged with violation of Espionage and Theft of Government Property statutes as well as conspiracy. Results should be furnished in a LHM together with your recommendation regarding further action based on information furnished Enclosures (2) MAILED 5 1 - Los Angeles DEC 18 1972 Baker . 1 - San Francisch Callahan Cleveland Conrad \_ Dalbey . JRW:mjg My Gebhardt . Jenkins Marshall SEE NOTE PAGE TWO Miller, E.S. urvis e. Room Kinley \_ rm strong\_ rwig \_\_\_

MAIL ROOM

TELETYPE UNIT

Airtel to Sacramento Re: McLek 65-74060-11\08

NOTE:

upon his request relative to information he desired to supply in connection with Ellsberg and the dissemination of "the Pentagon papers" to the Soviets. A review of information furnished by howed story he furnished was a fabrication and was undoubtedly for the purpose of being able to allege cooperation with Federal authorities in an effort to obtain some consideration with respect to local charges outstanding against him. It would appear that as some knowledge of and his alleged connection with Ellsberg. In order townake certain we are in possession of any information which would affect the prosecution of Ellsberg, Sacramento is being instructed to interview

### New Ellsberg indictment makes prosecution easier



anthony J. Russo has his arm around his girl friend, Katherine Barkley.

(Indicate page, name of newspaper, city and state.)

Page 3

The Chicago Daily News

Chicago, Illinois

Date:

1/1-2/72

Edition:

Author:

Editor:

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Character:

or

Classification:

Submitting Office: SI

Being Investigated

enclosure

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Daily News Wire Services

LOS ANGELES — A new, 15-count indictment naming Daniel Ellsberg and Anthony 1. Russo, former colleagues at the Rand Corp., should make the government's prosecution easier in the Pentagon Papers case, observers say.

Only Ellsberg, who has admitted giving the papers to newspapers, was named in an earlier indictment returned by a federal grand jury here. The action announced Thursday replaces that indictment, enlarges the case against Ellsberg and adds Russo.

Vu Van Thai, a former South Vietnamese ambassador to the United States, and Lynda Sinay, head of a Los Angeles advertising agency and a friend of both Ellsberg and Russo, are named as unindicted co-conspirators.

THE INDICTMENT, returned secretly Wednesday, accused Ellsberg and Russo of conspiring with others to steal and make known once top-secret Defense Department papers on the Vietnam war.

Ellsberg originally was accused only of unauthorized possession of the documents and converting them to his own use.

The new counts include charges of conspiracy, stealing, concealing, conveying and poseessing government documents and receiving, communicating or retaining national defense documents. The counts carry various penalties up to a maximum of \$10,000 fine and 10 years in prison.

Observers said the conspiracy count is expected to make the government's case easier because it will allow U.S. attorneys to use hears a satements of co-conspirator and other evidence not otherwise admissable.

Also, observers added, the sovernment will be required only to prove there was an agreement to commit an unlawful act and that at least one overt act was committed in the agreement.

"I DID NOT commit any crime," said Ellsberg, 40, a research associate at Massachusetts Institute of Technology. He learned of the indictment in New York. He met with newsmen at the office of former U.S. Sen. Charles E. Goodell, one of his lawyers.

Russo, 35, now an employe dered to U.S. District Court Judge Harry Pregers late Thursday and said: "The act for which I have taken public responsibility is an act I am proud of. I feel very happy today that I will have a chance to speak in court."

MISS SINAY TOLD the same grand jury that Ellsberg paid her \$150 to make copies of some documents on a copying machine in her office, but that she did not know their content.

Ellsberg is free on \$50,000 bail. Russo was freed Thursday on a personal recognizance bond of \$50,000.



Daniel Ellsberg holds a press conference in New York Thursday with his wife Patricia to deny the charges against him in the new government indictment. (AP)

## Ellsberg

## Races New

## Counts

LOS ANGELES (UPI)—A federal grand jury re-indicted Dr. Daniel Ellsberg Thursday on serious new charges of stealing the top secret Pentagon Papers, and also indicted a former colleague of his at the Rand Corp.

The scaled, 15-count indictment greatly increased the scope of the charges against the Harvard professor, and for the first time accused Anthony J. Russo, 35, of participating in the conspiracy.

Russo, now employed as a probation officer, surrendered in federal court here later in the day.

He was released on his own recognizance on \$50,000 bond, and was ordered to appear next reck to enter a plea.

Russo spent 47 days in fail for ivil contempt when he refused testify before a grand jury probing how parts of the 47-volume classified study of U.S. involvement in the Vietnam War fell into the hands of newspapers.

Later, Russo agreed to testify if his transcript was made public, but the government declined to go along with the plan.

Ellsberg, 40, a senior research fellow at the Massachusetts Institute of Technology who publicly acknowledged he was responsible for the original Pentagon Papers leak to The New York Times, has been free on bond since his original indictment June 28.

On Wednesday night, Ellsberg desended the study in New York, before a panel of Harvard University historians a the American Historical Association who charged that as a history, it was incomplete and of poor quality. (Indicate page, name of newspaper, city and state.)

Page 1

The Illinois
State Journal

Springfield, Illinois

Date: 12/31/71

Edition: Author:

Editor: Robert L. Woods

Title:

Character:

Classification:

Submitting Office:

SI

Being Investigated

4109

THELDSUM

Ellsberg said in New York that the new indictment did not surprise him. "I know the Boston (U.S.) Attorney's office has been working on me," he said. "So obviously another indictment was not another surprise."

The new, superseding indictment, announced by the office of Attorney General John N. Mitchell, was returned in Los Angeles Wednesday but was not opened until Thursday, presumably because of expectations that Russo would be arrested in the meantime.

Ellsberg was originally indicted on two counts of possessing government documents and converting them to his own use, punishable by a maximum penalty of 20 years' imprisonment and a \$20.000 fine. No trial had been scheduled.

The new indictment accuses

him of 11 federal crimes plus conspiracy, for which he could receive a maximum 115-year prison sentence and a \$120,000 fine if convicted.

The new charges include stealing, distributing and refusing to return classified Defense Department documents and illegally keeping national defense papers in violation of the 1940 Espionage Act.

Russo's three counts, plus a charge of conspiracy, carry a maximum penalty of 35 years in prison and a \$45,000 fine.

Named as co-conspirators but not under indictment were Vu Van Thai, 52, a former South Victnamese ambassador to Washington in 1965 who allegedly received one copy of the Pentagon study, and Mrs. Linda Sinay, 23, a Los Angeles advertising firm employe who helped make Xerox copies of the papers.

Ellsberg was listed in two counts as giving Thai and Mrs Sinay copies of various parts of the 47-volume study, all but the last four volumes of which were declassified by the Pentagon after stories on the study were published with Supreme Court assent in several U.S. newspapers.

Thai, now believed to be with a United Nations river development project in Dakar, Senegal, was said in the indictment to have received from Ellsberg one volume of the study entitled "Settlement of the Conflict — Negotiations, 1967-1968, History of Contacts."

A Justice Department spokes man said the new indictments "are not an indication of whether there will or will not be any more indictments."



A federal grand jury Thursday re-indicted Dr. Daniel Ellsberg, left, on serious new charges of stealing the top secret Pentagon Papers, and indicted a second person who has been eliding Federal Bureau of Investigation agents for two months. Named for the first time in a sealed, 15-count indictment was An-

thony J. Russo, 35, right, a former Ellsberg associate at the Rand Corporation where the classified study of U.S. involvement in Vietnam was prepared. The two are shown here in a file photo taken after Russo's release from prison in October. — UPI.

### New U.S.

# Indictment Of Daniel

## Ellsberg

By RICHARD DUDMAN
Chief Washington Correspondent
of the Post-Dispatch

WASHINGTON, Dec. 30—The Federal Government brought new criminal charges today against Daniel Ellsberg in the Pentagon papers case, asking for penalties up to 115 years in prison and \$120,000 fine.

A new 15-count indictment in the case also charged Ells-berg's former colleague at the Rand Corp., Anthony J. Russo Jr., linking the two an alleged conspiracy to violate theft and espionage laws.

The new indictment named as "unindicted conspirators" Vu Van Thai, 52 years old, who was South Vietnam's ambassador to Washington in 1965 and 1966 and now is a consultant on a United Nations river development program in West Africa, and Mrs. Lynda Sinay, 28, a Los Angeles freelance advertising a gent, who testified last June that she Xeroxed some papers for Elisberg for \$150.

Vu Van Thai was brought into the case as having releived from Ellsberg one volume of the lengthy Pentagon study of the Vien am War, titled "Settlement of the Conflict, Negotiations, 1967-1968, History of Contacts."

This appeared to be one of four volumes never obtained by the New York Times or other newspapers that published parts of the top-secret 47-volume was history. The Government since has made the complete study available to Congress through the Armed Services committees and has published a censored version and put it on sale for \$50.

The four volumes dealing with efforts to start peace talks were mailed by Ellsberg in 1969 to Senator J. William Fulbright (Dem.), Arkansas, chairman of the Senate Foreign Relations Committee but never have been made public.

In ay evident effort to strengthen its case, the Government broadened its former charges against Ellsberg to include the crime of conspictcy, which carries penalties of up to five years in prison and \$10,000 line. Russo was indicted under the same statute.

(Indicate page, name of newspaper, city and state.)

Page 1

The St. Louis Post Dispatch

St. Louis, Missouri

Date: 12

12/31/71

Edition:

Author: Richard Dudman

SI

Editor:

Title:

Character

or

Classification:

Submitting Office:

Being Investigated

60-4/09

FIGURERIA

Both men were charged with iolation of theft and espionage tatutes, the laws under which illsberg had been indicted last lune 28. The new indictment superseded the earlier two-count indictment, which charged him with merely illegal possession of government documents and converting them to his own use. A Los Angeles grand jury anded down the new indictment under scal early yesterday

pending the arrest of Russo, who was thought to be in Los Angeles. However, a delay in the arrest caused a delay in publication of the indictment. When Russo had not been apprehended after about 24 hours, the Department of Justice Department disclosed the indictment without explanation.

Ellsberg was to be informed of the new action against him through his attorneys, a Justice Department official said. He is free on \$50,000 personal bond and has been making speeches around the country at antiwar rallies and fund-raising events.

He pleaded not guilty last Aug. 16 to the two-count indict-

ment, although he had told re- to lestify before the Los Angeles porters in Boston, when he surrendered to federal officials June 28, "I delivered the Pentagon papers to the Senate Foreign Relations Committee and to the people through the American press.'

Russo had refused an order

grand jury under an offer of immunity and served 47 days for contempt of court. judge then ruled that if he testified, the Justice Department would have to provide him copy of the proceedings

TURN TO PAGE 7, COL. 1

within 36 hours. The Governsment said this was not accept

In the first count, allegin conspiracy, the new indictment said that Ellsberg, Russo, Vu Van Thai, Lynda Sinay and others unknown to the grand Jury "agreed, confederated and conspired together to defraud the United States . . by impair-ing, obstructing and defeating Fits lawful governmental function of controlling the dissemination of classified government studies, reports, memoranda and communications," as well as to steal the documents, keep them illegally and deliver them to persons not entitled to receive them.

A conspiracy conviction requires proof of overt acts. The conspiracy count said that Ellsberg had brought 10 volumes of the Pentagon papers, formally titled "United States-Vietnam Relations 1945-1967," to Los Angeles from the Rand Corporation in Washington. Rand is a research organization that works for the Department of Defense under contract.

~ Among other aileged overt acts, Ellsberg was accused of obtaining eight more volumes from Rand in Washington and taking them to Los Angeles, obtaining other documents from Raid in Santa Monica, and operating a Xerox machine with Russo and Mrs. Sinay in Los Angeles,

A further allegation of an overt act was that Vu Van Thai "possessed" one of the volumes on peace-negotiation efforts on Oct. 19, 1969.

Other counts detailed allegations that Ellsberg stole certain of the documents, concealed and retained them, and passed them to the other alleged conspirators.

charged under the conspiracy count, under Section 371 of Title 18, United States code. In addition, there were 11 substantive counts against Ellsberg and three against Russo. For each of the substantive counts, there is a maximum penalty of 10 years in prison and \$10,000 fine.

The theft charges were brought under Section 641,

which deals with embezzlement or stealing of public money property or records worth at least \$100. The Government says that the Pentagon papers allegedly taken by Ellsberg were worth more than \$100 but has put no more precise value on them.

Espionage charges were brought under three subsections of Section 793, on gathering, transmitting or losing defense information.

Subsection (C) applies to anypone who receives or obtains any
adocument connected with the
finational defense, knowing at the
time that his action is unlawful.
The law adds that he must do
so "with intent or reason to betileve that the information is
to be used to the injury of the
United States or to the advantage of any foreign nation."

Subsection (D) deals with the retention or delivery of any de-Tense document to an unauthorgized person by someone to whom it has been entrusted. Subsection (E) deals with the same actions by someone hav-Ing unauthorized access to the document. In both provisions, conviction depends on a finding that the possessor "has reason to believe" the document secould be used to the injury of the United States or to the advantage of any foreign nation."

A Justice Department official replied no comment when asked whether Mrs. Sinay or Vu Van Thai had been offered immunity from prosecution.

Ellsberg has been ordered to appear in U.S. District Court in Los Angeles next Tuesday for arguments on motions including discovery procedures and a re-



Daniel Ellsberg

Charged by grand jury



Anthony J. Russo

Also indicted

quest to move the case to Boston.

The Justice Department refused to say whether or not other indictments would be handed down in connection with the Pentagon papers.

Several reporters have been questioned by the Federal Bureau of Investigation in connection with the case, which grew out of the publication of parts of the papers by the New York Times, the Post-Dispatch and other newspapers last summer.

LECTURE OF DANIEL ELLSBERG

EASTERN ILLINOIS UNIVERSITY

CHARLESTON, ILLINOIS

OCTOBER 3, 1972

Ladies and gentlemen, on behalf of the University Board, this fine lecture is coming to you today. I'm CARROLL MC GILLACRIST, Chairman of Elections Theories Committee. I introduce our speaker of tonight, I have a few announcements to make. On October 6 the Temptations will appear in the Lantz Gymnasium. The tickets are on sale in the Union Lobby every day from nine to five. Can you hear now? OK. During homecoming, Saturday night, there will be a couple of dances; one is in the Lantz and the other one is in Mc Afee from eight to, I think, 11:30. Tonight we have a very distinguished speaker here at Eastern with us today. He is a Professor in Economics. He is an author of a book, Papers on the War. He is a former Marine Officer who served in the Defense Department from 1964 through 1965. He served two years in Vietnam State Department from '65 through '67. Before and after the government, governmental services, he was researcher at the Rand Corporation during which he helped to write the Pentagon Papers and which later had access to them as a researcher. In 1971 he took the responsibility for having revealed these papers to the Senate and later he revealed them to the press. Without any further ado and delay, here is DANIEL ELLSBERG.

Thank you. Can you really hear back there? Sitting, sitting back here I couldn't make anything out. There's, there's

such an echo. How can you hear in back? OK? All right. If you have trouble, let me know. Wave, or something. Day before yesterday was an anniversary for me. The third anniversary actually, of the night when TONY RUSSO and I started Xeroxing the Pentagon Papers so that I could give them later to the Senate Formulations Committee that fall, October 1, 1969, three years ago, this three million tons of bombs ago. So, if we had great confidence in the ability, let's say, on that stage of the war for one act like that. or one piece of information to end it very rapidly, one would have to say we'd failed. I don't think we thought it was up to us or I thought it was up to me to end the war. I really didn't have that power. The President of the United States could end it. Anyone of his predecessors for twenty years could have ended it. All that was up to me to do really was to decide whether I continued to conceal certain information that I had in my possession, access, to continue to keep it in my safe and to work it over as an expert on research, doing research for the Government, or whether this was information that the American people ought to know and that I would be wrong to continue to conceal. That was my problem. I solved it for reasons I'll come to later, perhaps, as far as I was concerned, on, in September and October of 1969. Actually. the information didn't get to the American people for another

year and a half. A little more than a year ago, June 13, the New York Times began printing the Pentagon Papers. was over a million tons of bombs ago. A little measure of comparison -- we dropped two million tons of bombs in all of World War II and a million tons in Korea. So since I first revealed the Pentagon Papers to the Senate Formulations Committee, we have dropped more bombs than in all of World War II plus Korea, and really, by November, this present President, the fifth in a row to pursue our war in Vietnam, will have dropped twice as many bombs in World War, than in all of World War II, all on Indo-China. Now, that is a failure. As I say, eventually the information did get to the American people. That was all I could hope to achieve and that was achieved, and that can't be put back in the safe. The war's continuing these last three and four years is a failure, a failure that a lot of people share, starting with the President, and which he shares, of course, with preceding Presidents, and I think, a lot of other people. I think that this war can go on for a very long time, that it's not almost over. There is, in fact, I think an opening for reasons maybe we'll come to in the discussion period where it could be ended rather quickly, but by all the polls and indications that, that opportunity will be missed. In which case, I think the war can go on for a very long time and will not be ended

until we really come to a much better understanding of the war than most people yet have. The Administration took the Pentagon Papers as seriously as I did. To reveal these to the public, instead of just what I'd learned from them to my bosses at the Rand Corporation or in the Defense Department, the recent people who contracted for the research. It was a very unusual act as far as my life was concerned. I take it people are moving because of a problem in hearing. Is that right? What's that? OK. We've got.....I, I can sense that there's a real problem here. Maybe there's too many mikes....too much echo. Is there an electronics expert here? From the FBI, or otherwise? You're nodding before I've even tried it. How's this? Now all right? Nothing yet? All the trouble is from this one? Now can you hear? All the trouble is from this one? Maybe it's a question of where it is. Seriously, does anybody have any advice here? I'll be glad to take it. How about this? Let me know when, when it's possible. OK, wait. I'll test in here. Let me see hands when it has reached the objectionable. I'll count one. One. OK. One, two, three, four, five, six, 

My job for the, for the Government was trying to learn lessons from Vietnam. Government doesn't seem to learn very much over a quarter of a century. It doesn't study much. Actually, I was the only person....Can you hear this now?

How? Let's see....You can't hear me I suppose if I don't

use the mike? How's this? OK. If you, if you see me

moving my head or something....Like this? OK. I'll try

this. I'll try to....to get a head brace here....

People have asked me really a lot, and actually over the last year, what there was to learn -- what there is in the Pentagon Papers. As I say, the, the Administration took them about as seriously, took the revelations as seriously as I did. For me it was a very unusual act. I'd worked for the Fxecutive for 12 years, or 15, counting the Marine Corps, and, for me Congress was the enemy as much as Russia was the Taking something to a Senator was about as, as likely for me to do as defecting to Russia; taking it to the press even less. So I had to consider it, it was fairly important to get this information out; to do something that I knew at the very least meant an entire change in my career, to say the least, a loss of clearance probably, of job, of career, and probably the, likelihood of prosecution. I didn't know the law well then; I'd worked for the Executive for 12 years. I'd assumed we were both the law. I didn't have much occasion to know much about the Bill of Rights or the Constitution, but I assumed there was something that they would try to prosecute me on. For their part, it's turned out, although I didn't

realize it at the time that the prosecution was as unprecedented an act for the Administration in the life or our republic as my act of revealing the papers was in my own. It was as unprecedented as the Administration's attempt to enjoin the publication of the papers. No source to a newspaper of any kind of information, classified or not, had ever been indicted for, ever been prosecuted. I knew that. I knew that there were leaks all the time; that what I had done didn't differ in kind from what was done, really, every day, literally, certainly several times a week in Government. I knew that no one had ever been prosecuted, at least to my knowledge, I had a very vague sense of why that was. After a year of being fairly close to the legal aspects of this and beginning to pick up a little of it, as a layman, I find out that this is because there was no law that had been violated. Under existing law, really, there are certain kinds of information having to do with codes or nuclear weapons data that are proscribed, that are criminal if they're revealed to an unauthorized person just by statute of Congress. That does not apply to the enormous, the overwhelming bulk of classified information. It's classified entirely on the basis, I now understand, of Executive Order, that is an Administrative System. The President can't make laws in a sense of criminal statutes, can't send people to prison for disobeying his directives, unless there's a statute

by Congress. There is no statute underlying the classification system and that is why no one has written a memoir like STRESSINGER or SORENSON or HILLSMAN or anyone who has leaked documents or information to the press has ever been indicted before. Why there is no law is a question I'd, I'd like to come back to. I think I understand that, too, better than I did, would've a year ago. But, any case there isn't. This Administration is a little less bound by that problem than earlier ones who decided to go ahead without law and to see whether the existing laws, like the Espionage Act or the Conversion Statute, Theft Statute, couldn't be re-interpreted in a new way so as to make this act of revelation illegal. If my prosecution is successful, if TONY or I are convicted and that conviction is upheld, there will be, in effect, no law. Secrets, in the sense of papers that have been stamped secret or top secret or confidential will then be subject to criminal prosecution for the first time in the past. There will be a new law, in effect. One presumes that secrets of that sort will be better kept. So, it's an interesting question. As I say, no Administration has been able to get Congress to pass a law or that wouldn't have this effect, but they won't have to if we are convicted. Now, the Government is spending several million dollars on this case and the question rises

why they are trying so hard to add to all the other anctions that have kept secrets in the past, the threat of loss of job, of prayer, of promotion, ambition, access to information: all these things which keep secrets in the Government just as they keep secrets in businesses very well, too well, have kept a lot of secrets in the past, kept the whole Pentagon Papers secret -- some of them for more than 25 years. We have to ask, I think, why it is that the Government is so anxious, in fact, to add to those other sanctions that have done the job for most Government officials, the threat of criminal prosecution, and what we should expect the effects of that to be. This, to me, is a new lesson for the Pentagon Papers, something that I didn't realize until I was familiar with the law. Now, how am I coming through now? Am I drifting forward or .... Can you hear it all right? I tell you what, let me, if you can't hear, or because I'm moving or anything, raise your hands or something at any point, will you, because that's the only way I can....think toward me? How's that? Is that really better? I, I was a little further before. OK. Can you hear now? If you can't hear, please just don't sit there letting me watch over you. Please raise your hands and, and we'll piddle around .... and see what I can do. OK.

When the papers finally did get out, a lot of people

made the comment that there really was nothing new in them. The information was all available and, of course, it was by then no secret that we were heavy in a war by 1969 or most of what we'd done was no longer a secret, that was true. What was the information? Why were they so anxious to put it out and to keep it secret? Why did I feel it important to put it in? As I say, when I've been asked this question over the last year quite a bit, I really intended to say up until this week, essentially, don't ask mc, read them. Don't ask an expert now to tell you what's in the Pentagon Papers. The time has gone, I think, it's been a mistake to rely on experts to do your thinking in this area so long. The material is available there. It is in various forms. Read it. I really refuse, essentially, to discuss the papers very much and, and I've done that pretty much. Let me ask you right now. How many people here have held in your hands or read any significant part of the four-volume Grivell edition, decompressed edition, of the Pentagon Papers? What? Raise it high and if you're .... What? How many have, have read a large part of the Bantam book, The New York Times Surgeon? Just for interest, while you have your hands up..... how many people have bought the Bantam book? Getting smaller. Well, I have to face reality at this point. I try to learn and that is that this, this advice that I gave to who heard

me to read them didn't really take effect in a very short period of time in this, in the period that we really need. I thought that a lot of that material in the papers was highly relevant last year and this year, next year, I wish that more people had read them and I wish a lot of people here would read them. The decompressed edition has now been....just cost \$20 for four volumes which is very much cheaper than Xeroxing. It's now joined by a fifth volume. the, edited by THOMPSKY and SIM, which has analytical papers. The American Friend Service Committee is putting out a small book of quotations from the Pentagon Papers called Credibility Gap. That'll be out this week, if you ask your book store to lay it in. It's a good, a good introduction. My book that's out....I'm gonna quote just parts of the Pentagon Papers that are in my book. It's a handy way to carry around parts of it, but that analyzes some of it, too. I do think that some of these lessons are important so I'm gonna spend some time tonight on, let's say, what I learned from the Pentagon Papers. Rather than try to give you any kind of comprehensive history of the war and the story that's in there, I want to give you a little of the flavor of what does revelations are about and focus just on things that changed my head....as time went on....things that struck me....not all at once, but just a few....we'll cover different periods.

these is from the very earliest period. Incidentally, I worked on the 1961 volume of the Pentagon Papers, the study. The Pentagon Papers, by the way, are sub-titled, rather their, their actual title is "History of U.S. Decision-Making in Vietnam, 1945 to 1968". That's the period they cover, have a few things from '44 and the last things they cover are in March of 1968, leading up to JOHNSON's decision to cut back the bombing of North Vietnam in 1968. So they have many volumes, mostly chronological and some analytical, like the Passification Program and the Bombing Program. All of these are in the Grivell edition. There's also a Government-printed office edition and a slightly explicated edition for \$40 or so in 12 volumes. It covers the same material, essentially. I think the volume that had the most effect on many, ultimately, was the one that I read last. I read it in September of 1969. It was really because I'd read it then that, to a large extent, that I felt the time had come to, to release these to the public, sent it all up to the Senate. The war essentially started on December 19, 1946 in fighting on the outskirts of Hanoi between the then recognized legal Government of Vietnam headed by HO CHI MINH and French forces which were beginning a process of re-invasion of their former colony. The first statement that appears in the Pentagon Papers is a, on that outbreak of war. It's by JOHN CARTER VINCENT who has been

Director of the Bureau of Far Eastern Affairs to, under Secretary of State, DEAN ACHESON. Can you hear me? OK. Testing .... On December 23, 1946, it says this .... Although the French....this is, this is then how the war in it's very earliest beginnings was presented essentially to the President of the United States; this memo is available, by the officials within the State Department. Although the French in Indo-China have made far-reaching paper conceptions to the Vietnamese desire for autonomy, French actions on the scene have been directed for dwindling down the powers and territorial extent of the Vietnam and free State. This process, the Vietnamese have continued to resist. At the same time, the French. themselves, admit that they lack the military strength to reconquer the country. Parenthetically, let me say that they were already receiving any, our aid in Europe which we were aware was being channeled to Indo-China. Without that aid they could not have done this by then, even in '46 or '47. But, it was not until 1950 that they were brought to the end of their resources, even the ones they were giving them in Europe and we faced the decision whether to give them aid directly to the effort of Indo-China. But to go on with how we perceived that effort, that French effort, at it's origins. In brief, with inadequate forces, with public opinion sharply at odds with the Government rendered largely ineffective through

internal division. The French had tried to accomplish in Indo-China what a strong and united Britain has found it unwise to attempt in Burma. Given the present elements in the situation, guerilla warfare may continue indefinitely. I happened to see VINCENT about six months, no, maybe, it was longer, it was almost a year ago. Now, when I was in Cambridge, I, I learned that he was retired there and I called him up and went over to pay my respects. really. for that memo, essentially. It seemed rather four-sided. And. I asked him if he remembered it and he said, "Yes. yes I remember it very well. What did I say in that?" Ten years, 15 years and I said what he said. "Indefinitely." This was approximately the 25th anniversary of that memo, which we celebrated December 23, last year, coming up on our 26th. How many of you here have read 1984? Well, you've read a lot of the Pentagon Papers then, more than you may realize. actually. You may not have so many lessons to learn from it. If you take GOLDSTEIN's Thesis seriously, but you. I just re-read it for the first time in 20 years about a week ago and for those of you, who are my age, who may not have, may not have read it for that time, I really suggest, even the people who've read it as, as long as two or three years ago, maybe in high school, I would suggest you take a look at some of that today, in particular, the parts of the so-called

GOLDSTEIN's Thesis, the forbidden secret document. Remember that he describes a state of affairs in which he puts it -warfare between the three great States, roughly, China, Russia and the U.S., has been continuous for 25 years, but it involves technicians, a few men, the use of technology against underdeveloped peoples. It takes place on the big frontiers whose whereabouts, the average citizen can only guess at. There's, that's, that's a beginning to an understanding of the Vietnam war and to the Pentagon Papers, to understand it has been a war that we have been in, that has gone on and, certainly, and that we have been involved in it, really, not for five years or seven years, not since '61 or not since '54 -- for 25 years. Two years later, before we entered it still quite directly, here was the State Department policy assessment to the President. We have not urged the French to negotiate with HO CHI MINH even though he probably is now supported by a considerable majority of the Vietnamese people, because of his record as a Communist and a Communist background of many of the influential figures in and about his government. greatest difficulty in talking with the French and in stressing what should and should not be done has been our inability to suggest any practicable solution to the Indo-China problem. just as we seem to find it impossible to find a practicable solution. As we are all too well aware of the unpleasant fact

that Communist HO CHI MINH. Communist HO CHI MINH. is the strongest and perhaps the ablest figure in Indo-China, and any suggested solution which excludes him is an expedient. of uncertain outcome. We are naturally hesitant to press the French too strongly or to become deeply involved so long as we are not in a position to suggest a solution or until we are prepared to accept the onus of intervention. It was not for just two years after that, that the French, about to collapse, in their effort, military, had to ask us for direct aid to them and their Vietnamese public forces and we had to take on the onus of intervention rather than to accept a solution which was not even among the practicable ranges of alternatives, that we let the leader support it by the considerable majority of the Vietnamese people, govern Vietnam, or some other government chosen by the Victnamese people or with the support of the Vietnamese people, even though he might be a Communist or was a Communist. That was the solution that especially in '48 and even more in 1950, a time when HARRY TRUMAN, the Democratic President then, was being accused of having been weak on Communism, having lost China to Communism, found that he could not, he could not regard as any solution that would involve letting a Communist govern a country neighboring of China as a "solution" as far as the U.S. was concerned, whether he had the support of

people or not, so we joined the war and we recognized ourselves with a French colonial re-conquest, as I described earlier, against the wishes of the support of the Indo-China's people, despite that. Documents like these kind of tripped me up after two years in Vietnem working for the State Department and an earlier year in the Pentagon. I guess I had at least the impression that a guerilla war had got, rather gave the impression of the origins as days of the frontiers, you might say, this area to the average person in 1984, having something to do with HO CHI MINH coming out of the jungle or going into it or something like CASTRO landing in Cuba with 12 men going into the Sierra Maestro. I was not aware and didn't believe, until I read the official documents, the history, the actual intelligence estimates of the time. described quite a different situation of HO CHI MINH, essentially, going into Hanoi indeed months and months after the French -after the Japanese in March of '45, had locked up the French Vichy colonial regime, disarmed them; Hanoi was then occupied by the Vietnamese troops of HO CHI MINH to greater popular claim at that moment. At which point in August of '45. a year earlier than these events here, HO, the Emperor VALDAI. formerly with all the rituals of court, advocated as Emperor of Vietnam in favor of President HO CHI MINH and he offered his services to HO CHI MINH as Supreme Counselor, a post he

held for about a year and a half. Then he went off to Hong Kong and his position as Supreme Counselor to HO CHI MINH was taken by the Catholic Archbishop of Hanoi for seven years until the French decided to put VALDAI back in as Emperor with our blessing in the fight against hope. so happens that a few months ago in the New York Times it had an editorial, describing in very familiar terms the fact that we went into this war with good intentions but now .... you know, and you know the rest....but now it's gotten too big and it's gotten out of control and it really isn't justified any more and we can't stand the costs, and so forth: the President should cut it off. I, I read, I talked to the Editorial Board at the Times and suggested that that was a fairly misleading description of the quotations I've just given. To be, to realize that our President, Democratic President and a Republican that followed him, was quite well aware of just what they were doing back in the only attack, the only prolonged attack, at a military re-conquest in the form of harmony after World War II. It's hard to describe that as good intentions in terms of our anti-colonialist principles, whatever reason. At this point they tended to say, well, it's just history. I said, "Yeah, but it's you who saw fit as the President does in every speech, to give a little space to history." It happens to be false history.

And the history described in these terms, the good intentions, the legitimate war and it's origins, the one that's now gotten too costly. That perception totally covers you, you reader's reactions, the electorates' reactions, to events such as were happening this spring. Were we watching an invasion as it was usually described of one country, a sovereign country, by a sovereign neighboring country, bound from progression, a Communist State trying to take over an, essentially, a foreign neighbor to which we were committed. If you would accept that perception which is embedded in the very words that you hear CHANCELLOR and KRONKITE and the others use as they described those events tells the viewers that each week possibly met the challenge, we have no right to eat, but it's a conflict in which the moral choice is to stay by our allies the President tells us. In other words, a sense of history supplies the very spectacles with which we watch the evening news, with which we read these editorials, and I think my impression is that they, well, if history has been poisoned year by year and is now the history that I had in my head when I went to Vietnam, but is simply mythical and leads to wrong policies as well as wrong understanding. I might ask, by the way, why those papers I just read to you which might seem rather innocuous were still top secret on June, 12, 1972, 71. They were declassified in the Government-printing office version.

But maybe that answers itself. The Government is not anxious to have it realized that this was the perception that from the very origins, and I might say these, these same quotations go on again and again and again in the official documentation, weren't anxious to realize, have us realize that the Presidents were told, five of them in a row, that this was essentially a legitimate effort in terms of our principles and of international law. It was an effort against the Vietnamese people .... and so forth. In fact, the earliest chronological deletion in the Government printing office version is really from a month before that, December 19, that incident as I've described, a few weeks before it actually. It was an incident of November, late November, in which the French deliberately provoked a conflict in Haiphong and then with their war ships off shore, shelled the worker suburbs of Haiphong and bombed them in planes, which shells and bombs supplied by us, essentially, and killed by their count, the French count, 6,000 civilians in Haiphone in the month of November, 1946. That's what led to the outbreak of war a few weeks later. Well, does it take really a tremendous insight to know why that is white space in the Government printing office version? You know, it might have seemed frightening in a way 25 years ago .... that incident. But I can understand why the Defense

Department felt the public wasn't quite ready to hear about that from them officially, although it is in the Grivell OK. What I learned .... let me, let me add one thing on that. '54.... This whole perception in the kinds of things you hear from the President about '54 in terms of the two sovereign nations that were agreed, that were formed at that point is, of course, a myth of history. South Vietnam is the creation of U.S. policy and direct violation and contradiction of the Geneva Accords which we can sign. No one has signed them. For each person there, including us, is to give a unilateral assurance for a docket of accords. We unilaterally undertook not to overthrow them by force. Now those Accords called for, as you've heard I'm sure, but you've also heard it denied, the denials aren't right, called for elections in 1956 for a government of all of Vietnam, Vietnam as regarded as one country, unequipped, and is to this day regarding this one country by all Vietnamese, even in the South Vietnamese Constitution. That can't be changed except by Constitutional amendment, in that that constrains President THIEU from it, if he wanted to change OK. Having made that agreement that we would not overturn that by force, we proceeded to buy an army and a police force for a dictator essentially selected by us whose main qualifications from our support was his determination to use

that army and police force to suppress any element of South Vietnam that wanted to under the course, not just the Communists, it so happens, really, a variety of existing people who wanted unification, who wanted the elections to be held were imprisoned, harrassed, tortured in many cases. So force was used and to say that is to say, or to say for example as Secretary MC NAMARA said, considerable candor, retrospectively, in '64, he said in a memo to the President, March '64, in the Pentagon Papers, only the U.S. presence, after 1954, held the south together under far more favorable circumstances than, than in '64 and enables DIEM to refuse to go through with the 1954 provision calling for nationwide free elections in 1956. That's a fairly false statement. that the U.S. money that we paid for that bought napalm for DIEM and built prisons and bought penthouse and anti and weapons as we are doing today was all that enabled DIEM to over-turn the provision of '54, the Geneva Accords. To say that is to say that U.S. policy has been at least from that date on or even earlier, every year, a violation of what was defined in the Nourburg principles as a crime against the peace, deliberate violation of international undertaking. What I've learned from the written origins of war, essentially Volume I of the Pentagon Papers in the decompressed edition, is this. There haven't been a first Indo-China war and second

Indo-China war; the first one being French, the second one being American, just one war, for 25 years, always an American war. My reading of those papers, and I invite you to read them and form your own opinion, is that they show that in no year of that 25 years would there have been violence approaching the scale of a war, had not the U.S. provided the money, the arms, the material, the combat support, to keep that war going. That isn't to say there would have been no violence, assassinations, terrorisms of some kind, reprisals. There would have been nothing that looked like the war. And to say that is to say that all of the people on both sides, men, women, refugees, the people we hired to shoot our weapons for us, as marching, as the people who were killed by those weapons and by U.S. hand, all victims of the U.S. policies. That's a very large number -- it's 12 million people since 1965, and that's just the way it's majored this war. The official Pentagon figures right now for the killed and wounded are military. what they call military combatants, have been a million and a half killed and wounded since 1969, since President NIXON took office; half a million civilians killed and wounded, a contemporary sub-committee for your own refugees, two million in Cambodia, 1.8 million refugees in South Vietnam, quarter of a million in Laos; that's four million refugees, not

counting anyone in North Vietnam. Four million plus two million killed and wounded which does not include the killed and wounded in Cambodia, Laos or North Vietnam. adds up to six million equal; and that's in the last three and a half years of winding down the war. I figure under JOHNSON the same official figure and sources was about five and a half million. Obviously the important thing is not that NIXON's figure is already larger, but that it's not less. So in terms of winding down, in terms of U.S. casualties, which have declined, greatly, to almost zero, the impact of the war on the Indo-Chinese people is in no way less that it was earlier, but what I'm saying here is that to that number of 12 million under the two Presidents, eleven and a half, you have to add, really, all the killed in the 20 years or so before that. In terms of U.S. policy, not to say that we alone are responsible, we are primarily responsible, our fire power, overwhelming amount of fire power, and both are superior, our policy to prolong the war -- that's a heavy responsibility. The Pentagon Papers don't say why these decisions were made in convincing terms. They don't give you an adequate answer. On the other hand, they enable you to knock out some answers. I would say when I approached the '61 material when I wanted to learn why KENNEDY had gotten into this problem, I held a very commonly held view that I now call the "(inaudible) Motto" which is

described in a long essay here based on some statements by ARTHUR SCHLESSINGER and others that this was the policy of inadvertence, the policy of one more step. The Presidents made these decisions ignoring our questions whether we had a right to make, whether they were legitimate, assuming that they were. Presidents made them because they were promised, according to SCHLESSINGER, at each point that the next step would be all that was necessary; one more turn of the screw. And thus we went, step by step, blindly, into fight more, each, each President thinking that he was about to be finished, and then waking up mornings later, unpleasant surprise, and kept on display as it progressed into a bog. As I looked at the Pentagon Papers, I found only one thing wrong on that generalization which is quite an eloquent, elegant proposition covering 25 years which was, it was totally wrong for every major decision in that quarter century. This is the secret of the Pentagon Papers, I'd say most frankly. I can't give a better example than in 1961, actually, I'll spend a moment on that, under JOHN KENNEDY. The usual vision of how KENNEDY happened to send advisors; he made the decision in the fall of 1961, I find had it's origins in New York Times reporting basically of that very period when TAYLOR returned from a mission to South Vietnam, General TAYLOR, a Special Assistant at that time to the President, later a Chairman of the Joint

Chiefs, later Ambassador to Vietnam, recently a memoirist. The New York Times reported the General declined to comment directly on whether he, he would recommend sending U.S. combat troops to stiffen the Vietnamese forces in their fight against the Viet Cong. However, when he was reminded at the airport that his remarks before leaving Saigon had been interpreted as meaning the President noting DIEM's problem as not manpower, the General replied, "That is correct. It is a populace country." Officials said it was correct to infer from this that the, General TAYLOR did not look favorably on sending U.S. combat units at this time. There would be considerable surprise here. General TAYLOR recommended such a move. While opposing the sending of American combat forces, General TAYLOR understood the favor of the dispatch of necessary military technicians and to propose intensified training of South Vietnamese elite troops and guerilla warfare by U.S. Rangers. A few days later, the New York Times reported President KENNEDY has decided on the measure we will take. The measures! which received final approval at a meeting of the National Security Council closely followed the recommendations made by General MAXWELL TAYLOR, the President's military advisors. They do not include the dispatching of combat units at this time, however, the President and General TAYLOR agreed, according to reliable information

here, that the South Vietnamese Government is capable of meeting and turning back the Communist threat provided the speed for the training of it's regular forces solves the problem of ability, develops some kind of an intelligence system, etc. All of the other stories in the other papers are similar to this. From all this and really history from this period that followed this until very recent years, you can only infer, the readers could only infer, that the President was doing what he was doing and was sending advisors because that was what he had been told to do by his best advisors in Washington and that they had told him that this would be adequate, that this would end the war before the period; that that would in effect, define the scale of the problem and we would have to be warned. This happened to be the opposite of the truth. Whereas it was said there would be considerable surprise here, General TAYLOR recommended such a move, that was on November 4. He had recommended that move on November 1, three days earlier, to no one's surprise. And, in fact, what he had said was, not simply the combat troops were recommended, but that they were essential, ar essential action, if we were to reverse the present account of the course of events. In fact, he reported, I do not believe that our program to save South Vietnam will succeed without it. I might say, by the way, that there were references

to this particular cable in the stuff I was going through in the safe in the Pentagon, working on the Pentagon Papers, and we couldn't find that cable. It was what they called an "eyes only cable". That means for the eyes only of the addressee who was the President. Still, there was supposed to be a copy in the Pentagon, but in the official files it wasn't, and there was a little note saying look in the President, in the Secretary of Defense's private safe. So. he gave us access to his safe. We looked in the file for that thing; it was gone. We couldn't find it anywhere and the State Department didn't seem to have it and finally, as I say, we found this cable. It was not an easy one too, for someone to know about, even within the Government. Why this secrecy about what had actually been recommended to the President? Partly because every other advisor, by the way, had recommended the same thing, for no one had told the President that he could succeed. This left me trying to analyze this stupid paradox. Why had the President, why had the President done what he dia? Why didn't he send troops if he was going in at all? That was all that would do the job, according to his advisors. Or why didn't he do less? Why didn't he get out if he didn't want to send troops? Why did he send something that everyone regarded as inadequate and why did he lie about it? Well, again, perhaps that

question answers itself, the last question. Having decided to do something that at best would prolong the war, would stalemate it at that moment. He probably coundn't get much support from Congress if he really told them frankly that this was against the advice of all of his advisors. He didn't have to believe his advisors, but, he wouldn't get the support. So, he chose to lie, to say that, and the secrecy had the effect then of preserving that lie, protecting him then. I might say that I always wondered who it was in the White House that had given out that word directly, in part of this, the President's turned out, but some time later, really, last year, when my wife and I, a very hot period, in June of 1971, when we were still out of sight, while I was giving copies of the Pentagon Papers to the various newspapers, I saw TAYLOR on television speaking to MARTIN ABRONSKY who was asking him if, the thing had actually been taped earlier, what about this recommendation in 1961. I knew, by the way, that TAYLOR's cable was about to come out in New York Times the next day because they had announced they were covering the KENNEDY decisions the next day. So, I heard TAYLOR saying, and I sort of felt like saying stop, wait, and watch it. This cable is about to come out. But, TAYLOR said to ABRONSKY, "I did not recommend combat forces. I stressed that we bring in engineer forces,

logistic forces, that could work on logistics that help in the very serious flood problem in 1961." What he had said, by the way, on that point from this same cable, actual cable, was, the extent to which the Task Force would engage in flood relief activities in the Delta will depend on further study. I see considerable advantages in playing up this aspect of the Task Force mission. However, the possibility of emphasizing the humanitarian mission will win if we wait long in moving our forces or in linking our state of purpose with the emergency conditions created by the flood. What he said was, "All I recommended then was help very serious flood problems in '61, so this was not a combat force. I did not recommend anything other than three Battalions of Infantry", pardon me, he said, "three Battalions of engineers." I sat there watching this, thinking, these guys think they have a license to lie that never quits. years later, still thinks it important enough, and in a certain sense it is, still important enough, to protect the President's early lies of ten years ago by continuing to lie to the American public. What makes him so sure? What makes him so clear in extent that he has a right to lie to us about our history that long? Will, time has past here. I wanted to, I'll tell you how I, to get some more examples from my own experience in the Pentagon, a good deal of lying went on while I was there, in '64 and '65, some of it's more familiar.

we ask why all this goes on, why the Presidents treat us as they do and why they lie, I think it's because, first, as I say, the Pentagon Papers show us that no President has ever been told the convincing way to win this war, at least a way that he thought the American people at that time would possibly accept, even in terms of American casualties or of the (inaudible) casualties that we might inflect. So, that left to him two choices; to cut losses, to get out. This is after TRUMAN had gotten his hand in this, or to do something to keep the thing going for another year. TRUMAN faced with that decision in 1950, a year after he had "lost China" in the words of RICHARD NIXON at that time and Senator MC CARTHY and others. This is the triad that NIXON just followed, however. But, TRUMAN did not find 1950 a good year to lose Indo-China as well. So in the face of these predictions, guerilla warfare could go on indefinitely, that the French had really no chance of winning the war, we moved in to help them kill Vietnamese and keep the war going in '50. '51 was not a good year to lose Indo-China either because it was a year before an election. '52 was an election year. saw new Administration in office. It had been elected in part because of it's charges that the previous Administration had lost to China. So, that wasn't really a good year to close out Indo-China, for it either, nor '54, etc. No year really

in the last 25 has been a good year for any Administration to decide to lose Indo-China. And really one rule accounts for the killing and spending involvement that we have done that accounts for it, for 25 years, and that is don't lose Indo-China to Communism before the next election, and that rule has applied in 1971 and '72, and I think it will apply in '73 if this Administration is elected, re-elected. not, not my opinion, a principle, and if somebody else has a more convincing way to describe what we've been doing, I'd like to hear it; one that would stand up and face all the documents in the Pentagon Papers. It's not the principle that adds legitimacy to our original involvement. It's not a good reason forkilling, a good enough reason, I would say. The other reasons that are occasionally given, dollars and what not, are also refused by the Pentagon Papers. intelligence estimates, since the mid-50's have never told the President that he had to fear with any (inaudible) South Vietnam and Southeast Asia going Communist if South Vietnam came under the rule of the people who had been fighting a revolutionary independence fight for over 25 years. the Pentagon Papers, to me, refute every reason that's ever been given that I've heard, the reasons that I believed when I volunteered to go to Vietnam in '65 after a year in the Pentagon; and then I still believe them, even when I came back, to some

extent. As I say, I think the documents refute every reason that's been given for our having any right to kill any Vietnamese. And that perception leads me to what they are facing in conflict that really must be terminated. I would say, immediately, immediately three years ago, five years ago, 20 years ago, or next year, or today, and the arguments about how many murders more we are allowed to commit in Vietnam before we terminate it, are missing, our main point. That, at least, is what I can prove, from this understanding. If nothing else, that suggests the relevance of policy of an understanding of history. Maybe you'll disagree if you read them. Finally, I found myself in 1969, not only having read this history, but having been informed by colleagues that had, with me, worked for the NIXON Administration in early 1969 when I worked as a consultant for HENRY KISSINGER. I was told at the same time that I'd finish this leave in September of 1969, that it was the intention of the Administration to follow the same principles, essentially, a policy which I needn't describe for you in great detail because it's what we have done, month by month, year by year, and it lasted three years; reduced the forces, not withdraw them entirely, but reduced foreign forces to a residual level slowly, before the election, forces which would be kept and indefinitely, so long as the other side did not agree to a

settlement that would guarantee a continuation of our regime in Saigon, the regime on our payroll. And these forces and that regime were to be protected by the threat of escalation, threats to be carried out if necessary, and, of course, it's what's proceedable. It was necessary, and they have been carried out. Of course, they have failed to win the war as was predicted. I didn't have documents. I was sort of in a position, as you know, of WINSTON SMITH in 1984 as far as that period was concerned. You know, his job, as I remember, in 1984, was to destroy any predictions that might conflict with the current state of affairs so that big brother could never be found to have told a lie or have made a mistake without making them up. So, policy took a shift in course. It wasn't enough to keep that secret from In 1984 immediately the documentary record was changed, so there really would be no way for me from that moment on, no way to get it all. And he goes through life remembering one moment and he says it was in 1973, he says, when he held in his hands the clipping that demonstrated it with documents that had somehow slipped by, an actual lie, something that could have shaken the regime which depended on these lies and secrecy for their credibility, but, having looked at the documentary, he put it in something that would at least have the Rand Corporation, it's called "the classified

material and released slot" or something like that. It's a slot in the wall. You put paper in it and it went down to an incinerator. It was called in 1984 a memory vault. You put the paper in the memory vault. Really, it was 1984 last week. I realized what the Pentagon Papers did mean to the new Administration. Yes, everything I've said tonight has been said before by the severist critics of the Administration, by far-out, extreme radicals, that's how I've seen them when I was in the Government. The secret of the Pentagon Papers was very simply what it was the Presidents knew that we didn't know and that secret was that what he was being told was what people in New York Review books were saying or in Communist countries, for that matter, about this war; that's all. The CIA, the Senate Department and his advisors in Vietnam were giving essentially the same predictions as the harshest critics of the war and that he had then been lying about those predictions of that condition to us. country the chance that people would believe such charges involving such lies, sufficiently to act on them; pretty small. Let's make it effective or not, but like big brother. Without documents the President can live with all manner of leaks, charges, suspicions, vulnerances, campaign, arguments. But documents hurt and the Pentagon Papers did hurt for a while. til the China trip was announced and as the President hurt

very badly, as the ITT documents show and as the India-Pakistan documents, for which JACK ANDERSON got a Pulitzer Prize, show. It makes that much difference, the difference between doubting, suspecting and maybe haphazard information to act on, act even in resistance to the President. But, the fact is that a succession of Presidents have lied to the American public for 25 years, Democratic, Republican and like. For three Administrations that lie to perform, it is not our war -- we'll just help them out, we won't get in. Then, under JOHNSON it was -- we're winning -- and then it was under NIXON -we're getting out. Each of those themes was what the public wanted to believe, was what was most pleasant to believe, true enough, but obviously it wasn't our war. Why did we ever get in? And then later, once we were in it, how could we not believe? And, after 1968, how could we not be getting out? It's what people did believe and to each one it was a lie. We were always in ; we were never winning; we have never been getting out. I think the time has past, certainly, if RICHARD NIXON is re-elected, carrying out his years in the tradition, I think, of his predecessors. The time has past when we have a new chance of getting out without coming to terms with the reality of the war, without understanding, without studying the documents and learning for ourselves. People have suggested ways of lying our way out of the war. Senator AIKIN, some years

ago, said, "Why don't you say that we won, and get out?" Well, we might, except that's not gonna happen. I do know, as I say, one day, when I held the piece of paper in my hand, well, of course, ultimately, I had the 7,000 pages in my hand. That's what defines an expert -- somebody who's read the book that no one else has read. And I had read 7,000 pages that nobody else had read, essentially, at that time. I had that in my safe. I had put that out at a considerable risk, believe it or not. I romember a day also which is the anniversary of that. It was three days ago, September 30. I remembered the date because I looked it up. It was when (inaudible) Times article. It was about the Green Beret case. I had finished reading the Pentagon Papers. I knew at that point that the President was fooling the American people in a new way. He was really making the credibility gap of JOHNSON work for him because after JOHNSON. a President didn't have to lie, but he could tell them the truth and they wouldn't believe him. He could tell them as he did in November and ever since that he wasn't getting out, ever. He wasn't getting out until the Saigon regime could stand on its own, until Hanoi would free our prisoners and would settle back and accept our terms. These were recipes for forever, just as they still are. He told us that, quite explicitly. But, he could be quite sure the people would say, oh, the

President's just fooling us, that's just the President talking. And that has worked for him, I think to this day. Nevertheless, it was a process of misleading the public once again. In that state of mind, as I said, I didn't have documents on that, but I had some documents revealing this similar pattern from earlier. The question was what to do about it. And I read this clipping on September 30, which had the headline, "Army Drops Green Beret Murder Case". And it described, you know, the dropping of charges against the Special Forces Officers in Vietnam who were involved in the killing of an alleged triple agent troop in Vietnam, murder, dropping his body in a, a weighted body, in the Tonkin Gulf from a rope. And the lead of it was this, the White House denies it had any role in the dropping of the charges. But, said the writer, in a very casual way, of the story, but this is obviously not the case. Obviously the White House made this decision. Secretary RESOR says that the White House had no part in it, that he alone made the decision, but this is, of course, obviously not the case. General ABRAMS explains that he brought the charges because murder was involved, but that's, ABRAMS' was rather silly because murder is involved every other day, and now, every day. Obviously, the reason he brought the charges was he was acting because he had been lied to by Colonel ROWE, Captain of

Special Forces, who had developed another story, had also been lied to by his Majors, Captains and down to his Sergeants, who had added the weights to the body and dropped it.

MAY INZ EDITION CEAFFMR (41 CFR) 101-11.8 UNITED STATES VERNMENT Memorandum ACTING DIRECTOR, FBI (65-74060) DATE: 12/12/72 SAC, SPRINGFIELD (65-1274) (RUC) SUBJECT: DANIEL ELLS BERG (MC LEK) ESPIONAGE (X) Re Bureau airtel to Springfield dated 9/19/72. Springfield nitel to Bureau dated 10/3/72 and Springfield nitel to Bureau, captioned Enclosed for the Bureau are five copies of an LHM containing a transcription of the lecture of DANIEL ELLSBERG at Eastern Illinois University, Charleston, Illinois, on 10/3/72. Also enclosed are two copies of three different newspaper articles concerning this matter. ADMINISTRATIVE: Special Agents mentioned in LHM are identified as This LHM is not being classified as it does not meet the criteria delineated in Executive Order 11652. INFORMANTS: ST-105 Source Location 123 Sections REC-23 16 DEC 18 1972 (2 - Bureau (65-74000) (Enc. 11) (RM) 1 - Los Angeles (105-27952) (RM) NATIONT. SEC. 1 - Springfield (65-1274) TCF/slt (4)970EC291972 Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

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### UNITED STATES DEPARTMENT OF JUSTICE

#### FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

Springfield, Illinois
December 12, 1972

### DANIEL ELLS BERG

On September 12, 1972, who has furnished reliable information in the past, advised that the Eastern Illinois University guest lecture schedule for the academic year of 1972-1973 indicated that Daniel Ellsberg would be a guest lecturer at Lantz Gymnasium, Eastern Illinois University, Charleston, Illinois, on October 3, 1972.

On October 3, 1972, a lecture given by Daniel Ellsberg at Lantz Gymnasium, Eastern Illinois University. was attended by Special Agents of the Federal Bureau of Investigation. Ellsberg lectured during the period 7:05 PM through 9:26 PM to an estimated 1,000 persons, consisting of both students and general admission attendance, concerning the contents of his book, "The Pentagon Papers", and his reasons for disseminating classified documents contained therein. Ellsberg's lecture was not inflammatory and is characterized as his stated opinions of erroneous and immoral United States Governmental decisions which caused him to reveal classified documents as a means of bringing these decisions and policies to the attention of the American people. Ellsberg elaborated on his personal opinions of the history of the Vietnam War and included the statement by himself to the effect that he went to Tony Russo on September 30, 1969 and found a Xerox machine to reproduce the papers in his possession to bring these lies to the attention of the American people. Ellsberg defended his actions by stating that there was no Congressional statutory basis for prosecution concerning the dissemination of classified documents and stated that his conviction would suppress the First Amendment rights of individuals and of the press.

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ENCLOSURE

## DANIEL ELLS BERG

The lecture terminated with a question and answer period which Ellsberg primarily used to endorse Presidential campaign of Senator Mc Govern in the 1972 Presidential election.

FEDERAL BUREAU OF INVESTIGATION Mr. Feit COMMUNICATIONS SECTION Mr. Baker . Mr. Callahan DEC 15 1972 Mr. Cleveland Mr. Conrad . Mr. Dalbey . TELETYPE Mr. Gabbardt Mr. Jenking · MO022 Mr. Mars (all NY PLAIN Mr. Miller, E.S Mr. Purvis ... 635 PM NITEL 12-15-72 Mr. Sovers Mr. Walters TO ACTING DIRECTOR 65-74060 Tele. Room Mr. Kinley -Mr. Amastrong OIC TTA Ms. Frervic Mrs heenar BOSTON 65-5236 LOS AMEFLES 105-27952 FROM NEW YORK, 65-25641 (P) MY LEK SIO ON DECEMBER FOURTERN. SEVENTYTHO. YORK TELEPHONE COMPANY, ADVISED SA THAT ON DECEMBER THIRTERN SEVENTATIO. ATTOPNEY LEGNARD ROUDIN CONTACTED HIM AND REQUESTED INFORMATION AS TO WHETHER OR MOT THE NEW YORK TELEPHONE COMPANY WAS HOLDING AMY TELEPHONE TOLL PECORDS FOR THE UNITED STATES GOVERNMENT RELATING TO HIM, HIS FIRM OF THUBICIA MARX. WAS ADVISED THAT THERE WERE NO TELEPHONE TOLL RECORDS BEING HELD RELATING TO HIM OR HIS FIRM BUT THAT CERTAIN TELEPHONE TOLL RECORDS RELATING TO PATRICIA MARX WERE BEING HELD FOR THE UNITED STATES GOVERNMENT AS A PESULT OF A SUBPOFNA DUCES DEC 20 1972 TECUM HAVING BEEN SERVED ON THE NEW YORK TELEPHONE COMPAN END PAGE ONE

PAGE THO

BOIDIN ASKED WHETHER OR NOT THESE WERE CHRRENT TELEPHONE,

BECORDS.

ADVISED HIM THAT THESE RECORDS PERTAINED

THAT POUDIN LOST INTERPEST. HOWEVER, BOIDIN

OF THE TOLL PECORDS REIMS HELD.

MARX WOULD HAVE TO MAKE A WRITTEN REQUEST AND THAT AS SHE IS

MARK WOULD HAVE TO MAKE A WRITTEN REQUEST AND THAT AS SHE IS

MOT IN MYST THEY WOULD HAVE TO BE FORMARDED TO THE SECURITY

OFFICE OF THE TELEPHONE SOMELY PICK THEM MP. BONDIN NOTED THAT IF

IT WAS NECESSARY FOR HIM TO OPTAIN THESE RECORDS, HE WOULD.

HAVE MRS. MARY WRITE THE APPROPRIATE LETTER.

PLS HOLD

FORTH BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

DEC 181972

0,51

TELETYPE

NR 916 LA ENCODE

520 PM NITEL 12-18-72 VLB

TO ACTING DIRECTOP (65-74060) /ATTN: DID/

BOSTON (65-5236)

NEW YORK (65-25641)

FROM LOS ANGELES (105-27952) 2P

MC LEK

SIO

Chiller of the contract of the

Mr. Feit \_\_\_\_ Mr. Baker \_\_

Mr. Callahan

I'r. Cabbordt-

Mr. Marshall
Mr. Miller, C.S.
Mr. Parvis
Mr. Soyars

I.Ir. Walters

Mr. Armstrong
Ms. Hervic

Mrt Leenan

Tale, Room . Mr. Kinley \_

Mr. Cleveland . Mr. Conrad \_\_\_\_\_ Mr. Dalbey \_\_\_\_

PEFENSE HAS SUBMITTED MOTION FOR ORDER EMJOINING GOVERNMENT
FROM SECURING POST INDICTMENT TELEPHONE RECORDS AND FROM USING THEM
TO QUESTION POTENTIAL DEFENSE WITNESSES. DEFENSE REQUESTED COURT
DIRECT GOVERNMENT TO DISCLOSE REQUESTS AND SUBPOENAS TO TELEPHONE
COMPANIES, ANSWERING SERVICES, HOTELS AND MOTELS FOR RECORDS OF CALLS
MADE TO OR FROM DEFENDANTS AND TO OR FROM, DEFENSE COUNSEL. DEFENSE
WANTS COPIES OF RESPONSES BY TELEPHONE COMPANIES, ET AL, AND
REQUESTED DETAILED STATEMENT OF ANY USE MADE BY GOVERNMENT OF SUCH
RECORDS INCLUDING PERSONS QUESTIONED BY FBI AND FBI PECORDS OF SUCH
INTERVIEWS.

END PAGE ONE

ST-105

3 DEC 20 1972

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PAGE TWO
LA 105-27952

IN SUPPORTING AFFIDAVITS TO MOTION, DEFENSE CITED CONTACTS

BY FBI WITH LAS TUNAS AND HOLIDAY HOUSE MOTELS, MALIBU BEACH WHOSE

MANAGERS HAVE ADMITTED PROVIDING FBI WITH TOLL CALLS OF ELLSBERG.

DEFENSE ALSO CITED FBI UNSUCCESSFUL CONTACT WITH

BELLES ANSWERING SERVICE, NYC AND FBI INTERVIEW OF

RE CALL MADE JULY

THREE SEVENTY ONE TO , A POTENTIAL DEFENSE WITNESS.

END

JDJ FBI WASH DC CLR

COMMUNICATIONS SECTION

DEC 2 0 1072

TELETYPE

MR 016 LA CODE

549 PM NITEL 12-20-72 GLD

TO ACTING DIPECTOR (65-74060) ATIN: DIE

FROM LOS ANGELES (105-27952) 2P

MC LEK, SIO.

Di jar

JUDGE W. M. BYRNE, U.S. DISTRICT COURT, LOS ANGELES, DENIED DEFFNSE MOTION CHALLENGING JURY SELECTION SYSTEM IN THIS DISTRICT.

ALSO DENIED DEFENSE MOTION FOR PRE-TRIAL HEARING ON IN-CAMERA GOVERNMENT ELSUP FILING 12/14/72. ISSUED ORDER REQUIRING

COVERNMENT ASCERTAIN IF TRANSCRIPT EXISTS FOR THIS AND

PREVIOUS IN- CAMERA FLSUR SUBMISSION. ATTORNEY ROUDIN

SAID THEY HAVE GOOD SUSPICIONS AS TO WHERE FLEUR EXISTS AND IF

THEY ARE RIGHT, THERE ARE MORE THAN TWO INTERCEPTS.

BOUDIN GAVE STRONG OPAL ARGUMENT IN SUPPORT OF MOTION TO

HAVE FLSHR CHECKS EXPANDED TO INCLUDE HIS PARTNERS RABINOWITZ

AND STANDARD.

SIBPOENAES OF TOLL RECORDS BEING FURNITARIOS FRI. IN MIDDLE OF
THIS ARGUMENT HE PRODUCED AIR MAIL LETTER RECEIVED AT HIS
LOS ANGELES APARIMENT 12/19/72 FORMARDED FROM HIS NEW YORK
RESIDENCE. LETTER WAS FROM POBERT ELLSBERG IN ENGLAND AND HAD

PAGE ONE

12/21/70 x0,150 medica

19

Mr. Felt .

Mr. Boker .

Mr. Callaham Mr. Cleveland

Mr. Conrad \_ Mr. Dalbey \_\_ Mr. Gebhardt

Mr. Purva

Mr. Soyars ... Mr. Walters

Tele. Room . Mr. Kinley \_

guels

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LA 105-27952

PAGE THO

PIECES OF SCOTCH TAPE. HE STRONGLY ALLUDED TO FACT THAT GOVERNMENT OPENED THIS MAIL AND WANTED INDEPENDENT CHECK FOR FINGERPRINTS.

HE ATTEMPTED TO GIVE LETTER TO JUDGE BYRNE TO HAVE BYRNE CONDUCT INDEPENDENT INVESTIGATION. BYRNE STATED HIS.

APPROACH WAS IMPROPER AND THIS SHOULD BE SUBMITTED IN PRESCRIBED COURT POOM PROCEDURE. BYRNE LOOKED AT LETTER, STATED STAMPED ACROSS OUTSIDE OF SEALS WERE NOTATIONS INDICATING EPITISH POUNDS, WHICH CLEARLY INDICATED TO HIM THE OPENING WAS MADE SOMEWHERE IN ENGLAND.

ELLSBERG'S DENTIST TO OBTAIN HER DENTAL CHART AND STATED

DENTIST WAS CONTACTED AS RESULT OF GOVERNMENT CHECK OF ELLSBERG'S

PANK RECORDS. BOUDIN STATED DANIEL ELLSBERG ARRANGED WITH

MASSACHUSETTS INSTITUTE OF TECHNOLOGY TO HAVE MAIL PICKED UP

AND DELIVERED TO HIS HOME. BOUDIN SAID ELLSBERG TOLD HIM A

TAXI DRIVER WAS INSTRUCTED TO DROP MAIL AT HIS TAXI COMPANY

PEFORE IT WAS DELIVERED TO FLLSBERG'S RESIDENCE.

BYRNE SAID HE WOULD HAND DOWN MOTION PEGARDING EXTENSION OF ELSUR CHECKS TO INCLUDE OTHER INDIVIDUALS AND SET 12/27/72 AS DATE GOVERNMENT MAY WISH TO RESPOND TO HIS MOTION.

The state of the s

NO FUPTHER HEARINGS SCHEDULED UNTIL 1/3/73 WHEN JURY SELECTION WILL COMMENCE.

FND

RES FBI WASH CLR

UNITED STATES GO "RNMENT Memorandum 1 - Mr. E. S. Miller Cleveland 1 - Mr. I. W. Conrad 1 - Mr. W. O. Cregar Gebhardt TO Mr. E. S. Miller DATE: 12/15/72 1 - Mr. J. R. Wagoner Marchall Purvia FROM Palleys SUBJECT: MC LEK NATIONALITIES INTELLIGENCE SECTION To request authorization for Los Angeles Office to conduct sweep of office of Departmental Attorney handling Daniel Ellsberg prosecution to detect any microphone surveillances and to have Los Angeles Office request telephone company to conduct similar sweep of telephones in the office. On 12/15/72, Departmental Attorney, John Martin, tele-phonically advised SA he had received request from David Nissen, Special Assistant to Assistant Attorney General, Internal Security Division, and Chief Prosecutor in Ellsberg case in Los Angeles, California, to determine if FBI could conduct a sweep of his office for detection of microphone and telephone surveillances. Mr. Martin advised Nissen did not indicate any reason why he believed office to be under technical coverage but was most desirous if FBI could handle the request. FBI Laboratory has advised that Los Angeles Office has personnel capable of conducting necessary sweep for microphone surveillance coverage as well as appropriate contacts with telephone company to check telephone lines for telephone surveillance. As a matter of information, Ellsberg trial scheduled to resume January 3, 1973, with selection of jury. In the interim, motions by the defense are currently being handled by U. S. District Judge in Los Angeles. Nissen's office is located in U. S. Court Building, Los Angeles, California. ACTION: If you approve, Los Angeles will be instructed to conduct sweep of Nissen's office for detection of microphone surveillance and contact appropriate officials of telephone company to conduct similar sweep of telephone lines into that office. 65-74060 JRW:mjg 12/21/2 2/21/20 15 to **(5)** 

1 - Mr. W. W. Bradley 1 - Mr. J. R. Wagoner

12/26/72

To SAC, Los Angeles

IREC-72

From For the Acting Director, FBI (65-74060) -- 4/// 4/
W. Mark Felt
Acting Associate Director

MC LEK NATIONALITIES INTELLIGENCE SECTION

Department of Justice advised Bureau that Departmental Attorney David Nissen, Chief Prosecutor in Ellsberg case, desires FBI to conduct a sweep of his office for detection of microphone and for telephone surveillances. According to the Department, Nissen did not indicate any reason why he believed office to be under technical coverage.

Los Angeles should conduct necessary sweep for microphone surveillance coverage and through appropriate contact with telephone company for check of telephone lines for telephone surveillance. Should any additional equipment not already in possession of Los Angeles Office be necessary to make checks, matter should be coordinated with FBI Laboratory.

JRW:masmn : (5)

# NOTE:

Memorandum W. O. Cregar to E. S. Miller dated 12/15/72, captioned "MC LEK," JRW:mjg obtained approval for instruction being given Los Angeles in instant airtel.

Felt Baker		
Callahan Cleveland Conrad	MAILED 5	7,
Dalbey Gebhardt Jenkins	DEC 22 1972	
Marshall Miller, E.S	10 1A 11 FBI 10	'3
oyars	630	
Tele. Room Mr. Kinley Mr. Armstrong _	J. M.	
Mrs. Herwig Mrs. Necnan	MAIL ROOM TE	LETYPE

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FD-36	(Ráv. 5-22-64)	3.1		Mr. Collaban
				Mr. Cleveland
•	• .			Mr. Conrod Mr. Dalhey
				Mr. Gebhardt
Cur		F B		Mr. Jenkina Mr. Marshall
			Date: 12/27/72	Mr. Miller, E.S. MAN
			12/2///2	Mr. Purvis
Transm	it the following in	(T		Mr. Walters
49 (19)	a serva		aintext or code)	Tele. Room
Via	AIRTEL	AIR MAIL		Mr. Kinley Mr. Armstrong
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				Mrs. Neenon
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343	with inform	ation furnished by	y Company	
303		Secretary of		
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	Special Age	nt in Charge	<b>♦U.S.Government Print</b>	ing Office: 1972 — 455-574
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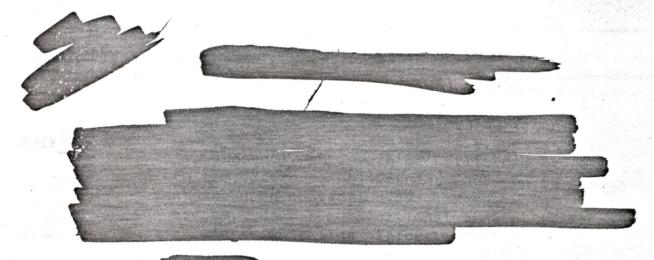
UNITE STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to .File No.

Sacramento, California

December 27, 1972



or Anthony Russo and had no information concerning them other than what he had read and heard from news media.

d he had requested that the FBI contact him because he does not believe the government should use testimony of one in the trial presently under way against Ellsberg in connection with documents removed from the Pentagon. He said he believed it would damage the government's case.

a great deal to about his case.

d others, including officers

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EHELOSUES 6: 74060 -4/15

was boasting that he was getting this charge, as well as state auto theft and check charges and federal bank fraud charges against him dismissed. He said this was supposed to be in return for his testimony that the murder had something to do with the Pentagon papers case. Id he concluded from what said the Pentagon papers had nothing to do with the murder which was strictly a "lovers' quarrel".

Pentagon papers which he considered to be his bargaining power for dismissing charges against him. However, he said he got these through some other indirect means and had passed them on to someone else.

ad no estimate of the accuracy of this claim.

aid he has become concerned that there are increasing numbers of "radicals" in this country who are intent on destroying it. Therefore, he would not like to see the government suffer another set-back in the prosecution of the Ellsberg case. He said that there seemed little doubt that there seemed little doubt that testimony would very easily discredited because of his motive for presenting it. He pointed out that it was well known around the jail as looking for a deal.

also questioned the accuracy of the testimony intended to give, based upon impressions he

retained after having listened extensively to

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MAY 1902 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GC \_\_RNMENT

# Memorandum

TO : ACTING DIRECTOR, FBI (65-74060)

DATE: 12/29/72

FRAN

SAC, SAVANNAH (65-1229) (P)

SUBJECT:

MC LEK

ReBureau Airtel 8/31/72.

The facts relating to captioned matter have again been furnished to all Agents of the Savannah Office, and no information has been developed to date as a result of their contacts with logical sources to indicate DANIEL ELLSBERG or any of his associates have been active within the Savannah Division.

(2) - Bureau 2 - Savannah

CMO/rqs

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2 JAN A 1973

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97JAN 101973

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

UNITED STATE: OVERNMENT

# Memorandum

ACTING DIRECTOR, FBI (65-74060)

DATE:

12/29/72

FROM L. JAC, SAN FRANCISCO (65-6076) (P\*)

SUBJECT: MC LEK, SIO

Re San Francisco airtel to Bureau dated 10/31/72 captioned: "MC LEK, SIO:

For information of Bureau and Los Angeles, a review of file at San Francisco determined all logical investigation regarding this matter has been completed at San Francisco.

In view of fact that trial regarding captioned is in progress, this case is being placed in a pending inactive status until such time as investigation requested of this Division.

EX-105

REC- 45 /-

1-8-03

12 JAN 4-1973-

(2-Bureau (RM) 2-Los Angeles (105-27952) (RM) 1-San Francisco SMB/sdr #S-7 (5)

9 TJAN 10 1973

NAT AVE. SEC.

FEDERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

JAN 0 3 1973

TELET

NR Ø15 LA CODE

624 PM NITEL 1-3-73 GLD

TO ACTING DIRECTOR

(65 - 74060)ATTN:

FROM LOS ANGELES (105 - 27952)1 P

MC LEK, SIO.

JURY SELECTION HAS BEGUN BEFORE JUDGE W. M. BYRNE. U.S. DISTRICT COURT, LOS ANGELES. TWELVE PROSPECTIVE JURORS AND SIX PROSPECTIVE ALTERNATES ARE BEING COLLECTIVELY VOIR DIRED BY JUDGE BYRNE.

DEFENSE ATTORNEY BOUDIN HAS INDICATED DISPLEASURE WITH JAN 8 1973 DEPARTMENT OF JUSTICE RESPONSE REGARDING LAST ELSUR OVERHEAR. JUDGE BYRNE WILL HEAR ARGUMENTS ON THIS MATTER NINE THIRTY A.M. JANUARY FOUR NEXT.

END

97JAN 101973

Mr. Boker \_\_\_ Mr. Callahan Mr. Cleveland Mr. Conrad Mr. Dalbey -Mr. Gebhardt Mr. Jenkins Mr Purvis . Mr. Seyers Mr. Wolters . Tele. Room . Mr. Kinley \_ Mr. Armstrong Ms. Herwig . Mrs. Neenan

Mr. Felt

COMMINIC

TELET

EM 186

Mr. Baker \_\_\_ Mr. Callahan

Mr. Cleveland
Mr. Conrad

Mr. Dolbey

Mr. Gebbardt

Mr. Marshall .

Mr. Welters

Mr. Kinley \_\_\_\_ Mr. Armstrong

Ms. Fierwic \_\_ Mrt. Neeuan

NR 027 LA GODE

1029 PM NITEL 1-4-73 RWM

TO ACTING DIRECTOR (65-74060) ATTN: D I I

FROM LOS ANGELES (105-27952) 1P.

MC LEK, SIO.

Worder

DURING COURT SESSION JANUARY FOUR INSTANT JUDGE BYRNE

COMPLETED PRELIMINARY QUESTIONING OF FIRST EIGHTEEN PROSPECTIVE

JURORS ASSEMBLED. ONE OF THE EIGHTEEN WAS DISCHARGED ON HARDSHIP

BASIS. DURING AFTERNOON SESSION JUDGE BYRNE COMMENCED VOIR DIRE

OF INDIVIDUAL JURORS.

PAUPERIS AS REGARDS TO COURT COSTS AND TRANSCRIPT COSTS. HE TOOK UNDER SUBMISSION THAT PART OF MOTION WHICH RELATED TO WITNESS FEES AND EXPENSES. VOIR DIRE OF JURY WILL CONTINUE REC- 45

PRESS REPRESENTATION AT TRIAL SCANTY AND CROWD SPARSE. 11 JAN 8 1973

END

HOLD

gm/s.

97JAN 101973

Approved: \_

**79** JAN 16 1973 Special Agent in Charge

FBI Date: 1/3/73 ESM TES Transmit the following in \_\_\_\_\_ (Type in plaintext or code) AIRTEL AIR MAIL - REGISTERED (Priority) ACTING DIRECTOR, FBI (65-74060) TO: FROM SAC, LOS ANGELES (105-27952) SUBJECT: MC LEK STO-ReBuairtel 12/26/72. On 1/2/73 the offices of Departmental Attorney DAVID NISSEN were caused to be swept for detection of microphone and/or telephone surveillances by SA and a representative of the Pacific Telephone Company. There was no indication that such surveillances had been initiated. Specific information concerning the sweeps is con-a memo from and will be maintained in the tained in a memo from Los Angeles file. 2-Bureau (RM) 1- Los Angeles GSB:fet REC-40 65 74060 -4/3/ (3) Can Sec. 6 JAN 1 6 1973

Sent \_

DERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION JAN 0 5 1973

Mr. Felt . Mr. Baker .

Mr. Callahan .

Mr. Cleveland . Mr. Conrad -Mr. Dalbey

Mr. Gebhardt .. Mr. Jenkips Mr. Morghall \_ Mil Mille Es. Mr. Purvis Mr. Soyars

Mr. Walters . Tele. Room .

Mr. Kinley -Mr. Armstrong Ms. Herwig .

Mrs. Neenan

NR ØII LA CODE 707PM NITEL 1-5-73 GLD TO ACTING DIRECTOR FROM LOS ANGELES (105 - 27952)

MC LEK. SIO.

79 JAN 1 6 1973

6 JAN 1 6 1973

JUDGE WILLIAM M. BYRNE, U. S. DISTRICT COURT, LOS ANGELES CONTINUED MATTER OF QUESTIONING PROSPECTIVE JURORS 1/5/73. DEFENSE CALLED FOR CONFERENCE AT SIDE BAR AND ADVISED JUDGE THAT A VOLUNTEER WORKING FOR THEM HAD BEEN APPROACHED BY PROSPECTIVE JUROR 1/4/73 IN A RESTAURANT AND STARTED TO DISCUSS CASE WITH HER. BYRNE STATED HE WOULD HANDLE THIS AT LATER TIME AND TURNED TO QUESTION PROSPECTIVE JUROR 15-74060-9102 IMMEDIATELY STATED SHE AND PROSPECTIVE JUROR WERE IN RESTAURANT 1/4/73 AND OBSERVED A FEMALE 11-JAN 10 1973 TALKING TO PROSPECTIVE JUROR SHE SAID THIS FEMALE THEN APPROACHED SHE AND STATING SHE WAS Wallace-15 WORKING FOR THE DEFENSE IN THE ELLSBERG TRIAL AND WISHED to MAG, 150 END PAGE ONE

TO DISCUSS TRIAL AND VIETNAM WAR WITH THEM. THEY TOLD HER
THEY WERE UNDER INSTRUCTIONS NOT TO DO SO AND WOULD NOT TALK
WITH HER. SHE STATED THEY HAD TO DO THIS A NUMBERO OF TIMES AS
THE GIRL PERSISTED. THEY FINALLY LEFT THEIR TABLE AND WALKED
OUT OF THE RESTAURANT. GIRL FOLLOWED THEM PERSISTING IN EFFORTS
TO TALK ABOUT CASE AND VIETNAM WAR. JUROR TOLD
SUBSTANTIALLY SAME AS JUROR WAS QUESTIONED.
AND ADVISED HE HAD ASKED FEMALE TO SIT WITH HIM AND IN
VAGUE TERMS TOLD OF TALKING TO THE GIRL ABOUT EVENTS IN
COURT ROOM BEFORE HE WAS SEATED AS A PROSPECTIVE JUROR.
JUDGE BYRNE THEN DISCHARGED JURORS
FOR CAUSE AND CONTINUED VOIR DIRE OF REMAINING PROSPECTIVE
JURORS.
ADMINISTRATIVE.....

SAN FRANCISCO TELEPHONICALLY ADVISED THAT.

SHE IS NOT KNOWN TO THAT OFFICE. POSSIBILITY EXISTS DEFENSE
HAS INSTRUCTED THEIR VOLUNTEER HELP TO MINGLE WITH JURORS AT
LUNCHTIME TO ASCERTAIN FEELINGS TOWARDS VIETNAM WAR AND

WAS OVER-ZEALOUS. JUDGE BYRNEIS APPARENTLY
IGNORING THE INCIDENT. JUROR QUESTIONING WILL RESUME

END

HOLD FO ONE

DWH FBI WASHDC 2

9:30 A.M., 1/8/73.

FEDERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

JAN 97 13/3

447PN HITEL 1-7-70 GLD

ACTING DIRECTOR

MR OCI LA CODE

1.05 V

PC LEY! SIO.

Mr. Welters Tele. Poom Mr. Kinley Mr. Armstrong

Mr. Felt

Mr. Baker

Mr. Callahan Mr. Cleveland Mr. Conrad

Mr. Dalbey ..

Mr. Gebhardt Mr. Jenkins

Mr. Marchall Mr. Miller, E.S. Me Partin

Mr. Soyars

FROM ONE-THIRTY TO THREE-THIRTY PH JANUARY SEVEN INSTANT AN AMTI-WAR DEMONSTRATION WAS WELD IN EXPOSITION PARK. LOS ANGELES. CALIFORNIA. AN ESTIMATED THIRTY FIVE HUNDRED PEOPLE WERE IN STIENDAUGE. AT THE BEGINNING OF THE DEMONSTRATION ANTHORY RUSSO MADE A FEW COMMENTS AND THEN BEAD TELEGRAMS FROM SEVERAL HOTAPLE PERSONS INCLUDING SENATOR JOHN V. THUNEY. JUNIOR UNITED STATES SENATOR FROM CALIFORNIA. ELLSGERG MAS ONE OF A NUMBER OF SPEAKERS ALL OF WHOM SPOKE IN OPPOSITION TO THE VIETNAM MAR. ELLSBERG'S COMMENTS STRESSED THE RESPONSIBILITY OF THE INDIVIDUAL CITIZEN TO DRING ABOUT AN END TO THE VIETUAL WAR. THERE MERE OP INJURIES. 11 JAN 10 1973

ADMINISTRATIVE

ELLSBERG'S SPEECH MAS RECORDED AND WILL BE FURNISH THE BUREAU IN A FORK SUITABLE FOR DISSEMINATION

END

CC 11 April 150

NR ØØ8 LA CODE

PM NITEL 1-8-73 LRS

TO ACTING DIRECTOR (65-74060)

FROM LOS ANGÉLES (105-27952) 1P

ATTN: DID

Mr. Kinley Mr. Armstrong Ms. Herwig Mrs. Neengn

Mr. Baker Mr. Callahan Mr. Cleveland Mr. Conrad Mr. Dalbey Mr. Gebbardt Mr. Jonkins Mr. Morehall

Wil Million E.S. Mr. Purvis . Mr. Soye:s

Mr. Walters Tele. Room

MC LEK. SIO.

QUESTIONING OF PROSPECTIVE JURORS CONTINUED JANUARY EIGHT INSTANT. JUDGE BYRNE CALLED FOR ADDITIONAL PROSPECTIVE JURORS TO BE SELECTED AND WILL CONTINUE QUESTIONING OF THESE INDIVIDUALS. WHEN HE HAS SUCCESSFULLY COMPLETED QUESTIONING OF EIGHTEEN, IT IS ANTICIPATED HE WILL CALL FOR EXERCISE OF PEREMPTORY CHALLENGES.

ATTORNEY FOR JANE LOWENTHAL APPEARED IN COURT JANUARY EIGHT INSTANT ATTESTING LOWENTHAL HAD ONLY CONTACTED THREE PROSPECTIVE JURORS PREVIOUSLY CITED. DEFENSE FILED MISTRIAL MOTION STATING ARTICLE APPEARING IN "LOS ANGELES CONTACT WITH PROSPECTIVE JURORS IN WHICH ATTORNEY DAVID NISSEN WAS QUOTED AS CHARGING JURY TAMPERING, UNDULY INFLUENCED THE JAN 10 1973 JURY PANEL.

QUESTIONING OF PROSPECTIVE JURORS WILL CONTINUE JANUARY

NINE NEXT.

79 JAN 16 1973 LXS FBI WASH DC CLR

JAN 161973

To John Marin



FIDERAL BUREAU CE I VESTIGATIO! COMMUNICATIONS SECTION

JAN 1 0 197

JNR 029/LA CODE

1040PM NITEL 1-9-73 GLD

ACTING DIRECTOR (65 - 74060)ATTN: DID

FROM LOS ANGELES (105-27952)

MC LEK, SIO.

QUESTIONING OF PROSPECTIVE JURORS CONTINUED JANUARY NINE INSTANT. ONE JUROR EXCUSED FOR CAUSE. DEFENSE EXERCISED TWO PEREMPTORY CHALLENGES AND THE GOVERNMENT ONE. JURY QUESTIONING WILL CONTINUE JANUARY TEN NEXT.

END

FBI WA RDR

11.113 A&G CONT. REC-1163-74060 -

ILI JAN 15 1973

97JAN221973

Mr. Feit Mr. Baker . Mr. Callahan

Mr. Cleveland

Mr. Conrad Mr. Dolbey .

Mr. Gebberdt Mr. Jenkins Mr. Marshall Mr. Miller, E. Mr Purvia

Mr. Walters

Mr. Armatrong Ms. Fierwic

Wall 15

JAN 101973, 7780	Mr. Cleveland Mr. Conrad
NR 030 LA CODE	Mr. Dalbey Mr. Gebhardt,
826PM NITEL 1-10-73 8LD	Mr. Jenkins Mr. Morsholl Mr. Miller, E.S.
TO ACTING DIRECTOR (65-74060) ATTN: D I D	Mr. Purvis
COLUMBIA	Mr. Walters Tele. Room Mr. Kinley
ST. LOUIS	Mr. Armstrong
FROM LOS ANGELES (105-27952) 2P	fort feedure
MC LEK, SIO.	Uplow
QUESTIONING OF PROSPECTIVE WROOM CONTENTS	
QUESTIONING OF PROSPECTIVE JURORS CONTINUED JANUARY TEN	
INSTANT. NO EXCUSALS FOR CAUSE OR PEREMPTORY CHALLENGES EXERCISED.	
g and a second s	
LOS ANGELES POLICE INTELLIGENCE ADVISED JANUARY TEN INSTENDED THAT CRIK, A RADICAL ORGANIZATION WHOSE PURPOSE IS TO FERRET	ANT
OUT AND EXPOSE POLICE UNDERCOVER INTELLIGENCE ACTIVITY, IS	
CONDUCTING BACKGROUND INVESTIGATION ON	12 ·
WHO IS ONE OF PROSPECTIVE JURORS	20
ONTACTED LAST WEEK AND WHO WAS EXCUSED FOR CAUSE, WITH AIM O	= K/Y
PROVIN WERE ACTING ON BEHALF OF	1 / / / /
	/ AN
GO VERNMENT TO EMBARRASS DEFENSE.	Par
	1 (1)
ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE JANUARY	41100
ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE JANUARY	ALIMO
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ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE JANUARY	16 1973
ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE JANUARY NINE LAST.  ST-102  ASSISTANT U. S. ATTORNEY DAVID NISSEN ADVISED OF CRIK ACTIVITIES.  END PAGE ONE  REFERENCE LOS ANGELES TELETYPE JANUARY  ST-102  ST-102  ASSISTANT U. S. ATTORNEY DAVID NISSEN ADVISED OF CRIK  REC-4965 1/060 - 1	1126 16 1973

PAGE TWO LA 105-27952

MISSEN HAS REQUESTED BACKGROUND, INVESTIGATION BE

CONDUCTED CONCERNING ONE WHO ALLEGEDLY WILL

BE AN EXPERT WITNESS FOR DEFENSE.

BLACKSTOCK CURRENTLY INSTRUCTOR, POLITICAL SCIENCE
DEPARTMENT, UNIVERSITY OF SOUTH CAROLINA, COLUMBIA. FROM
NINETEEN FIFTY SEVEN UNTIL FIFTY NINE HE WAS CIVILIAN
EMPLOYEE IN OFFICE OF ASSISTANT CHIEF OF STAFF, G-2, ARMY
INTELLIGENCE, PENTAGON, VIRGINIA. ALLEGEDLY FIRED IN 1959.

LEADS:

BUREAU REQUESTED REVIEW INDICES ON PAUL BLACKSTOCK.

COLUMBIA UPON RECEIPT OF BUREAU AUTHORITY WILL REVIEW

OFFICE INDICES, DISCREETLY VERIFY BLACKSTOCK'S EMPLOYMENT AT UNIVERSITY

OF SOUTH CAROLINA, OBTAIN DESCRIPTIVE DATA AND PHOTOGRAPH FROM

DEPARTMENT OF MOTOR VEHICLE RECORDS.

ST. LOUIS AT NATIONLA PERSONNEL RECORDS CENTER WILL.

UPON RECEIPT OF BUREAU AUTHORITY REVIEW BLACKSTOCK'S CIVILIAN
PERSONNEL RECORD FOR FULL DETAILS REGARDING HIS GOVERNMENT
EMPLOYMENT AND REASON FOR TERMINATION.

END

JRM FBI WASH DC

FOR FOUR

CLR

1/15/73

To:

SACs, Los Angeles (105-27952)
Columbia
St. Louis REC-40

From:

Acting Director, FBI (65-74060)

4126

MC LEK

(NATIONALITIES INTELLIGENCE SECTION)

ReLAtel, 1/10/73.

Paul Blackstock, referred to in referenced teletype, apparently identical to Paul W. Blackstock, who, in 1965, was Associate Professor at the University of South Carolina, Columbia, South Carolina. Paul W. Blackstock wrote FBI Headquarters on several occasions seeking access to correspondence emanating from the FBI in 1923, which is kept at the Archives in Washington, D.C. He was declined access to the files, and subsequently in correspondence, he became insulting and demanding in his request to review the material. As a result, he was placed on the "No Contact List."

In 1964 a book was released written by Paul W. Blackstock entitled "The Strategy of Subversion: Manipulating the Policies of Other Nations." A review of this book, which appeared in the 9/65 issue of "The Annals of the American Academy of Political and Social Science," indicated Blackstock, in his book, was opposed to security agencies in general and particularly the Central Intelligence Agency.

Bureau files show that additional information regarding

With regard to the request of Departmental Attorney David Nissen, Columbia and St. Louis are instructed to limit

Felt	JRW:mlr (8) N	MAILED 6
allahan		JAN 1 2 1973
onrad		JAN 12/19/3
ebhardt		FBI
farshall filler, E.S		
oyars 3	7JAN 22 1973	
ele. Room	* OKNE 2 1013	1
fr. Armstrong	16N	loi "

SEE NOTE PAGE TWO

4.73

We KOW FELLON

Airtel to SAC, Los Angeles
Et Al

Re: MC LEK

(NATIONALITIES INTELLIGENCE SECTION)

65-74060

investigation solely to reviews of existing records. Bureau notes photograph of subject obtained from Passport Office, Department of State, was furnished Columbia as an enclosure to WFO letter of 10/22/69. A copy of this photograph should be furnished Los Angeles, together with the descriptive data set forth in above-mentioned WFO letter. This will alleviate the necessity of checking records of the Department of Motor Vehicles. Unless Blackstock's employment at the University of South Carolina can be verified through an established source or public records of the University of South Carolina, no inquiries in this regard should be made.

St. Louis should handle lead set forth in referenced teletype.

### NOTE:

Departmental Attorney handling Ellsberg case in Los Angeles has learned that one Paul Blackstock reportedly will testify for the defense as an expert witness. He is currently employed at the University of South Carolina, and from 1957 to 1959, was civilian employee in office of Assistant Chief of Staff, G-2, Army Intelligence, Pentagon, from which position he was allegedly fired. This Departmental Attorney has requested background information regarding Blackstock, including verification of employment, descriptive data, photograph, and review of Government employment records. This request has been discussed with Departmental Attorney John Martin, who is handling case at Department, and he concurs with the request.



by whom BLACKSTOCK had been contacted with reference to preparing a brief for the defense of ELLSBERG and further was completely surprised that BLACKSTOCK would consent to assisting in the defense of ELLSBERG,

The above is being furnished to the Bureau and to the Los Angeles Division for information purposes and no further action is being taken concerning this information by the Seattle Division.

Mr. Baker . Mr. Callahan Mr. Cleveland Mr. Conrad Mr. Dalbey . Mr. Gebhardt Mr. Jenkins Mr. Marshall Mr. Miller, E.S. Mr. Purvis Mr. Soyors Mr. Wolters Tele, Room Mr. Kinley Mr. Armstrong Ms. Hervic 708 PM NITEL 1-11-73 JJS Mrs Meeuar ACTING DIRECTOR (65-74060) ATTN: FROM LOS ANGELES (105-27952) ON JANUARY ELEVEN INSTANT JUDGE BYRNE COMPLETED QUESTIONING OF SECOND GROUP OF PROSPECTIVE JURORS. ONE JUROR EXCUSED FOR ON JANUARY TWELVE NEXT BYRNE WILL HEAR PEREMPTORY DEFENSE HAS TWELVE PEREMPTORIES LEFT TO THEM AND PROSECUTION FIVE. POSSIBILITY EXISTS JURY AND ALTERNATES MAY BE SEATED JANUARY TWELVE NEXT. REC-47 65 - 74040 - 4/12 8

END

HRS FBIHQ WASH DC CLR

NR Ø2ØLA CODE

TO

CHALLENGES.

070 John Mart EX-101

10 JAN 16 1973

9 7JAN 2 1973

FEDERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

JAN 1 3 1973 )

TELETYPE

'NR 027 LA CODE

1058 PM NITEL 1-12-73 RWM

TO ACTING DIRECTOR (65-74060) ATTN: D I D

FROM LOS ANGELES (105-27952) 1 P.

MC LEK, SIO.

ESM

Mr. Welters
Tele, Form
Mr. Kirley
Mr. Armsuch
Mr. Armsuch
Mr. Hervit
Mrt. Reepar

Mr. Baker \_\_\_\_ Mr. Callahan

Mr. Cleveland .

Mr. Conrad .

chila

DURING COURT SESSION JANUARY TWELVE INSTANT DEFENSE

AND GOVERNMENT EXERCISED TOTAL OF SEVENTEEN PEREMPTORY

CHALLENGES. PROSPECTIVE JUROR PANEL REDUCED TO TWELVE WHICH

HAS BEEN SEATED AS THE JURY IN THIS CASE. JURY CONSISTS OF TEN

FEMALES AND IS RACIALLY COMPOSED OF EIGHT WHITES, THREE

MEGROES, ONE MEXICAN AMERICAN. EIGHTEEN ADDITIONAL PROSPECTIVE

JURORS HAVE BEEN CALLED AND ARE BEING QUESTIONED BY JUDGE

BYRNE TO SELECT SIX ALTERNATE JURORS. DURING THIS SELECTION

BOTH DEFENSE AND GOVERNMENT WILL HAVE THREE PEREMPTORY CHALLENGES.

GUESTIONING OF PROSPECTIVE ALTERNATES EXPECTED TO LAST THROUGH AND WEEK NEXT.

END

60 21. Show May 54.

9 7 JAN ~ 2 1973

10 JAN 16 1973

NOO

### FB1

Date: 1/9/73

it the following	(Type in plaintext or code)
 AIRTEL	AIR MAIL - REGISTERED  (Priority)
 	ACTING DIRECTOR, FBI (65-74060)
FROM:	SAC, LOS ANGELES (105-27952)
SUBJECT:	MC LEK SIO
	ReLAteletype 1/7/73.
captione of this R. NISSE	Enclosed for the Bureau are five copies of an LHM ed "DANIEL ELLSBERG; ANTHONY J. RUSSO, JR." One copy LHM is being furnished locally to Special AUSA DAVID EN.
delivere	LHM contains a transcription of ELLSBERG's speech ed on 1/7/73 at Exposition Park, Los Angeles.
The tape	ELLSBERG's speech was recorded by was transcribed by stenographer
of the L	The actual tape is being maintained in the 1-a section to Angeles file.
	1 Surve
	2/2 13
Jan Jan	3/2/2/13 /m / 1/2
<pre>l- Los A RFK:fet</pre>	u (Encls5)(RM)
1- Los A	u (Encls5) (RM)   CAS. 150   CA
1- Los A RFK:fet (3)	REC-64 6 0 - 74060 - 9/30
<pre>l- Los A RFK:fet</pre>	REC-64 6 0 - 74060 - 9/30



In Reply, Please Refer to File No.

### UNIT ... STATES DEPARTMENT OF \_ STICE

Los Angeles, California
January 9, 1973

DANIEL ELLSBERG; ANTHONY J. RUSSO, JR.

On January 7, 1973, an anti-war demonstration took place at Exposition Park, Los Angeles, California, under the auspices of the Citizens for Peace organization. Approximately 2,500 people attended. Featured speakers were Father Daniel Berrigan, Joan Baez and Daniel Ellsberg.

Set forth below is a verbatim transcription of the speech given by Daniel Ellsberg at this demonstration.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

4130

### DOCTOR DANIEL ELLSBERG ---

"Thank you. Thank you for standing up for yourselves by being here. For standing up for all of us, that's the only way we'll end this war.

What are you willing to do to help end this war? What have you done? What will you do? What are you prepared to do to stop further worse escalation, to bring this war to an end. That's the subject of our talk today. You have a lot of speakers and I'm going to speak very briefly to it. I just want to announce the fact that we're not here to protest and we're not here to dissent, we're here acting out of a consensus of the people of this country. We're here to exercise our sovereign powers to end this war, not to send messages to anybody but to act and to organize. Not to mourn but to organize.

We all know what brought us here today. I'm not going to spend any time talking about that. Nothing that Richard Nixon and Henry Kissinger will do in the rest of their lives will make up for what they have done to the people of Indo-China, in the last four years. Or even what they have done in the last months to the people of

Hanoi. But the rest of their lives for years from now, and their consciences, are their problems. And our problem today is how we spend our lives and what we do with our powers. We know why we're here today, our problem is to try to help us all—help each other find answers. About how to do something about the situation that brought us here today. How to do something about the Constitutional crisis, and the crisis of people in Indo-China, that has brought us here today. And how to act.

If all the people in this country, who want this war to end, act upon their constitutional powers as citizens of a republic, to end it, we can end it. We are not here out of despair today, even if some of you think that you are. Even if you think that you're just making yourself feel better out of despair, because people don't act out of despair. And even being here today is an action. You're here today out of hope and the actions that you take will be out of hope, in the future. And there's a basis for that hope, and the basis has to be the possibility for change. There will be two people on this platform today who are heroes of mine. Not for the first time that I've shared platforms with people like Joan Baez and like Father Berrigan, and I've asked myself—I've asked myself what makes someone my

hero? What does that mean for me? I think it means to me someone who has changed my life, as these people have changed my life. They've shown us all the possibility of change, that lives can change, that we can change our lives and be an example to others. Every person who changes his life is an example to those around him. And by change--when I say changed my life or changed one's life, that doesn't mean ultimate risks necessarily. It can mean just changing habits, to begin with. That's how change begins. It can mean asking yourself what it is you can do. Asking the question that I asked at the beginning here. What can I do? Have I done enough? What more can I do? I hope that there are a lot of people here who are heroic in that sense -- in that sense that's available to us all. For whom even being here represents a change. I hope there are people here who have never been to a rally before. I hope that there are people here who voted for Nixon because they thought it would bring peace. Let me see, be honest because it will make me feel better the more there are. Can I see anyone who was in either of those categories who's either never been at a rally before or who's here because he voted for Nixon and wanted peace?

If you voted for Nixon you have a right to some feelings of despair and impotence and apathy. But that's what you're meant to have. That's what the game is and you're playing their game if you succumb to those feelings. Paralysis is what you're meant to feel by little surprises like that, that you've just suffered. The problem is now what you learned from that and how you act on it. What should be learned from from the frustrating and rather bad, bad history of the last ten years or so? You're not the first, if you voted for Nixon, to be fooled in just that way. In 1964 the people who voted for Lyndon Johnson voted for peace. When they got Lyndon Johnson the Vietnamese got three million tons of bombs. Fifty percent more than World War II. In '68, the people who voted for Richard Nixon were voting for peace. We got Richard Nixon and the Vietnamese got four million tons of bombs. Twice as much as World War II. Everyone who voted in this election, whomever you voted for, was voting for peace this time. You had no other choice. Both candidates were offering a peace that had been agreed upon, that had been negotiated, a peace that was said to be acceptable, a peace that was at hand except for a few technical details.

all you had to vote for. I don't think there were very many unhappy people, about that lack of choice when it came to giving a mandate for peace. Everyone voted for peace and the Vietnamese have now had the heaviest bombing in the history of mankind. The prisoners who are over there now, the hundreds of thousands of Vietnamese lives that have been lost, the thousands-tens of thousands of Americans will have been wasted, will have been wasted if we don't learn from that history. And what there is to learn is on the one hand: yes, we have been fooled. We have been made fools of. We have been fooled. But if we let it happen again you can't call us fools. You have to call us accomplices. What we should learn is not to accept one more deception, that we have to wait four more years before we can exercise any power and be fooled again into ending this war.

The man who died just recently, Harry Truman, was a good man and a humble man. But even humble men get distorted perspectives when they sit in the White House. Harry Truman was wrong, the buck stops here, right here, with you and me. It does not stop on the President's desk. To let the President feel that he alone has the responsibility for issues of war and peace and issues of mass-murder, in which we're all accomplices, is to give that man full

responsibility for failure. You give one man full responsibility for failure and he will lie and kill. He will conceal and use deceit and violence to postpone that failure and to avoid accountability for it. That's what each President has done in Indo-China for 25 years. What choice do we have? There is a government that we learned about in grade school. We don't quite have it today, but it can be had --it's possible. It's an American experiment -- it was imagined in this country. Three independent branches of government, the power of war and peace in the hands of the elected legislature, the Bill of Rights. We've come a long way from that but we have no right to despair on the possibility of achieving that government. We have no right to the people who are victims of our autocratic -- our elected monarchy now in Indo-China. We have no right to deprive our children of that heritage of their sovereignty. We must act as members of a republic and the starting point of that is to understand what the responsibilities are, of acting as a member of the republic. That means the buck is here, that means the responsibility is yours, for what has happened and what is yet to happen. Congress will not act on its responsibilities, we should also learn that. Unless we push them. They are limited men like all of us. They are They are afraid of bucking the executives.

can only reduce their fears by letting them know that they have our support in getting peace. And we should make them-give them some other fears, some other risks as to what will happen to their jobs if they don't carry out our sovereign wishes, on that point.

I suggest, as a little piece of homework before you go, even if you are in the crowd, if you have a little piece of scrap paper, or if you go home tonight, to do this exercise. You line up on one side of a piece of paper, and there-there's corresponding tables here to express this exercise, right now. Line up on one side of a piece of paper the kinds of things, things that are yet to happen in this war. Will the bombing go on as it is? Or to get worse? Firebombing, anti-personnel bombing in the heart of Hanoi. That's a contingency plan, that the President undoubtedly has. Total annihilation, genocide of the people of Indo-China. Possibly invasion of Indo-China. Possibly the use of nuclear weapons. Those are the contingency plans there. If you don't make contingency plans yourself then you'll do the same thing you did last time when he carried out one of his plans for escalation. Ask yourself if that was enough, and if you want to do more. On the other side

of the piece of paper, you put the things that you can do whether it's writing a letter to your Congressman, writing a tough letter, working for his opponent, forcing him, demanding him, that he exercise his powers of filibustering, of obstructing legislation that the President wants if it's of more priority, of obstructing other appropriations, of cutting off the appropriations for this war. There are other things you can do. You can demonstrate, like today. You can sit in, you can picket your Congressman's offices, and you can strike. These are various things you could do. Everybody here is in a different position, depending where you came from and your history and your life and where you are today. Then take those two lists and draw lines between those, and that's your contingency plan. Decide for yourself what your threshhold is of visiting Washington. Where do you draw the line, at which point do you step into demonstrations if you haven't before. When do you sit in, when do you strike? Decide now and you'll act faster in the future. All of this is Constitutional, all of it means being a member of a democratic republic. I was asked to wrap it up and I will with this quote, 'We are in a constitutional crisis.' Has the American Revolution been betrayed? Obviously it has, but revolutions are always betrayed. They are always betrayed

and they always have to be fought for again. The struggle for the kind of freedom and self-government that began here 200 years ago is a struggle that never, never does end. As the people of Indo-China are setting an example for us. And I have a quotation here from 200 years ago that I want to close with. These words are as true today as they were 200 years ago when men called them common sense.

The cause of America, our cause here today, is not alone our cause. The cause of America is, in a great measure, the cause of all mankind. The laying a country desolate with fire and sword, declaring war against the natural rights of all mankind and extricating the defenders thereof from the face of the earth, is the concern of every man to whom nature hath given the power of feeling. Of which class, regardless of party censure, is the author.' Tom Paine, February 4, 1776

One thing has changed. The country that is being laid desolate is now the country that an American woman, Joan Baez, has returned just today, returned with her life for which we are very happy. The country being laid desolate with B-52's is not our country today. We are the Red Coats. How didthat come to happen? But it has happened. Nevertheless,

what it means to be, as I say, a citizen of a republic, is to mean that it is our responsibility and that another line by Tom Paine is just as true today as it was before, if we act on it.

'We have it in our power to begin the world all over again'.

Start today.

FEDERAL BUREAU OF INVESTIGATIO COMMUNICATIONS SECTION

JAN 1 6 1973

TELETAPE

NR 27 LA CODE

1035 PM NITEL 1-15-73 DLB

TO ACTING DIRECTOR (65-74060) ATTN: DID

FROM LOS ANGELES (105-27952) 1P

MC LEK, SIO.

QUESTIONING OF PROSPECTIVE ALTERNATE JURORS COMMENCED

DURING COURT SESSION JANUARY FIFTEEN INSTANT. ANTICIPATED

ALTERNATES WILL BE SELECTED BY JANUARY SEVENTEEN NEXT WITH

POSSIBILITY TRIAL COULD COMMENCE IMMEDIATELY UPON COMPLETION OR

ON JANUARY TWENTY TWO NEXT AT LATEST.

THERE HAVE BEEN NO DEMONSTRATIONS TO DATE IN CONNECTION WITH TRIAL AND LITTLE APPARENT PUBLIC INTEREST IN JURY SELECTION PROCESS.

END

51-110

REC-64 61 14160 -4/31

11 JAN 17 1973

den/?

97JAN221973

Mr. Callaham
Mr. Cleveland
Mr. Cleveland
Mr. Conrad
Mr. Conrad
Mr. Gebhardt
Mr. Jenkins
Mr. Manthall
Mr. Miller, E.S.
idr. Parvis
Mr. Soyors
Mr. Walters
Tele, Res a
Mr. Rivery
Mr. Arth trang
Mr. Newars
Mr. Newars
Mr. Newars
Mr. Newars

Mr. Feir

Mr. Baker

WYMY TELEVIER

NR 31 LA CODE

8:11 PM URGENT 1-16-13 DLB

TO ACTING DIRECTOR (65-74060) ATTN: DIE

FROM LOS ANGELES (105-27952) 1P

MC LEK. SIO.

Craffit

Mr. V. ale: 8

Mr. Atterreng . Ms. Herwig \_\_\_

Mr. Collahan . Mr. Cleveland

DURING COURT SESSION JANUARY SIXTEEN INSTANT JUDGE BYRNE

OMPLETED QUESTIONING OF PROSPECTIVE JURORS, PEREMPTORY CHALLENGES

EXERCISED AND SIX ALTERNATE JURORS SELECTED AND SEATED. TRIAL

OMMENCES NINE THIRTY A.M., JANUARY SEVENTEEN NEXT WITH

PRESENTATION OF OPENING STATEMENTS BY PROSECUTION AND DEFENSE.

END

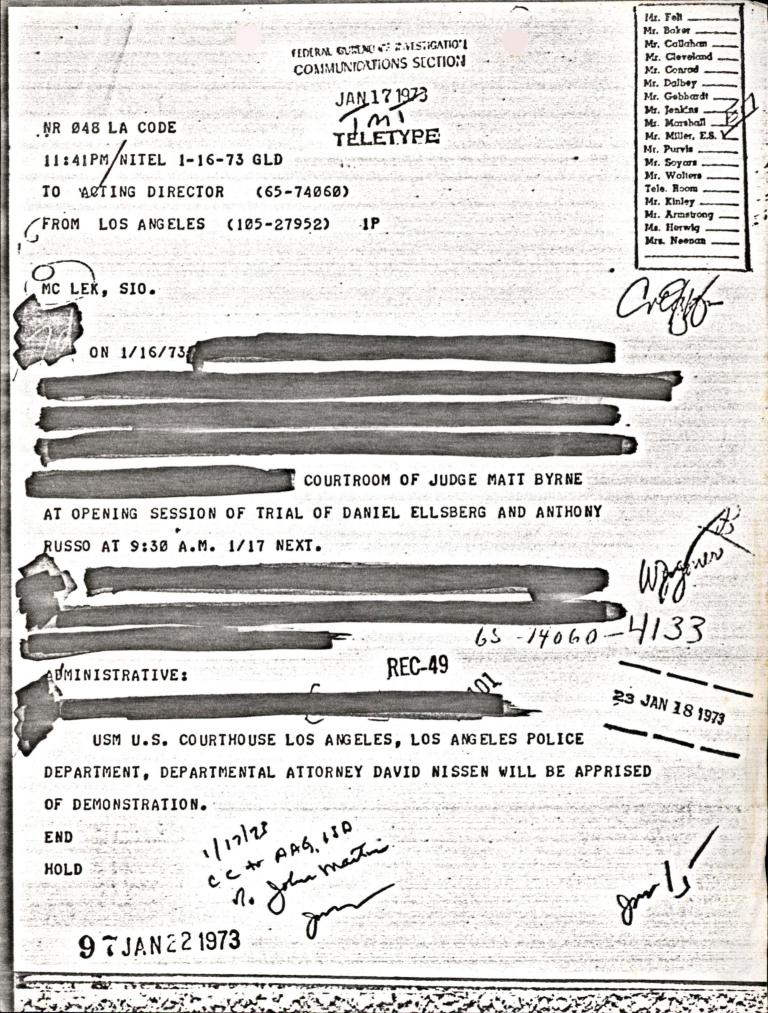
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97JAN221973



FEDERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

JAN 1 8 1973.

NR 039 LA CODE

TELETYPE

6:15 PM NITEL 1-18-73 RWM

TO ACTING/DIRECTOR (65-74060) ATT N:

FROM LOS ANGELES (105-27952)

MC LEK. )SIO.

Mr. Kinley Mr. Armenona Ms Fiervic

Mr. Baker Mr. Callaham

Mr. Claveland

Mr. Conrad Mr. Dalbey Mr. Gebhardt

Mr. Jenkins Mr. Maradall

Mr. Miller, E.

Mr. Walters Tela. Room

Mr. Purvis Mr. Soyars

DURING COURT SESSION JANUARY EIGHTEEN INSTANT FRANK BARTIMO. ASSISTANT GENERAL COUNSEL. DOD. WAS FIRST GOVERNMENT WITNESS. PRESENTED INTO EVIDENCE THE EIGHTEEN VOLUMES OF THE MC NAMARA STUDY WHICH ELLSBERG HAD TRANSPORTED FROM WASHINGTON. D.C.. TO SANTA MONICA. THE INDUSTRIAL SECURITY MANUAL AND A DOD INSTRUCTION PAMPHLET REGARDING SECURITY CLASSIFICATION. DURING CROSS-EXAMINATION AND DESPITE VIGOROUS GOVERNMENT OBJECTTIONS, DEFENSE ATTORNEYS WERE ALLOWED TO QUESTION BARTIMO IN AREAS OTHER THAN ON HIS DIRECT TESTIMONY. IN THIS MANNER DEFENSE LEARNED FROM BARTIMO THAT THE NATIONAL SECURITY AGENCY (NSA) HAD DONE A REC-63 65 14060 DAMAGE ASSESSMENT ON RESULTS OF PUBLICATION OF MC NAMARA PAPERS IN THE NEWS MEDIA. DEFENSE DEMANDED NAMES OF INDIVIDUALS IN-NSA WHO HAD FORMED THE DAMAGE ASSESSMENT AND DEMANDED COPIES OF THE JAN 221973 DAMAGE ASSESSMENT REPORTS THAT BARTIMO HAD SEEN.

GOVERNMENT OBJECTED STRENUOUSLY TO THIS CITING CONGRESSIONAL STATUTE THAT CERTAIN GOVERNMENT AGENCIES. INCLUDING MSA MEED NOT REVEAL AREAS ON WHICH THEY ARE WORKING NOR NAMES OF INDIVIDUALS

ES TAFA Nº 254 1973

LA 105-27952

PAGE TWO

PERFORMING THE WORK. JUDGE BYRNE THEN INSTRUCTED BARTIMO TO
SUBMIT TO HIM IN CAMERA SESSION THE NAMES OF INDIVIDUALS INVOLVED
IN DAMAGE ASSESSMENT AND COPIES OF DAMAGE ASSESSMENT REPORTS
THAT HE HAD REVIEWED.

SECOND GOVERNMENT WITNESS WAS LIEUTENANT GENERAL WILLIAM
DE PUY, U.S. ARMY, PENTAGON, WHO INTRODUCED INTO EVIDENCE AN
EIGHT PAGE PORTION OF THE WHEELER REPORT AND PROCEEDED TO POINT
OUT AREAS OF IMPORTANCE OF THE WHEELER REPORT.

REMAINDER OF COURT SESSION JANUARY EIGHTEEN INSTANT TAKEN UP BY CROSS-EXAMINATION OF DE PUY.

DURING MORNING SESSION COURT ROOM WAS FULLY OCCUPIED;

HOWEVER, IN AFTERNOON SESSION THERE WERE SEATS AVAILABLE. NO

DEMONSTRATIONS OR INCIDENTS OCCURRED. PRESS COVERAGE JANUARY

EIGHTEEN INSTANT MINIMAL. TRIAL RESUMES NINE THIRTY A.M. JANUARY

NINETEEN NEXT AND IT IS ANTICIPATED DE PUY WILL BE BACK ON STAND.

ADMINISTRATIVE:

DEPARTMENTAL ATTORNEY MISSEN IS DISMAYED AT JUDGE BYRNE'S LENIENCY IN THAT ALLOWING DEFENSE TO CROSS-EXAMINE IN AREAS OTHER THAN ON DIRECT TESTIMONY, HE HAS ALLOWED THE DEFENSE TO ENTER INTO NEW AREAS OF DISCOVERY WHICH ESLL EXPAND BOTH LENGTH OF TRIAL AND AREAS OF EXAMINATION.

END

HOLD

FERNE BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

JAN 1 8 1973

NR 025 LA CODE

1047 10 AM 1-17-73 NITEL JDH

ACTING DIRECTOR (65-74060)

ATTN: DID

FROM LOS ANGELES (105-27952)

2 P

MC LEK, SIO.

Mir freeman

Mr. Feit -Mr. Baker -

Mr. Callahan Mr. Cleveland . Mr. Conrad . Mr. Dalbey -Mr. Gebhardt Mr. Jenkins

Mr. Marshall Mr. Miller, E.S.

Mr. Farvis . Mr. Soyats . Mr. Walters

Tele. Room . Mr. Finley .

Mr. Armstrong . Ms. Hervic .

ENTIRE COURT SESSION JANUARY SEVENTEEN INSTANT TAKEN UP BY PRESENTATION OF OPENING STATEMENTS. BOUDIN IN HIS STATEMENT ADMITTED ELLSBERG TOOK PENTAGON PAPERS FROM RAND CORPORATION, XEROXED THEM AT LYNDA SINAY'S ADVERTISING FIRM AND FURNISHED XEROX COPIES TO SENATOR FULBRIGHT. BOUDIN CLAIMED PETAGON PAPERS WERE NOT GOVERNMENT PROPERTY BUT PRIVATE PROPERTY OF WARNEKE. HALPERIN AND GELB. HE INDICATED DEFENSE WOULD ATTACK ENTIRE SYSTEM OF GOVERNMENT CLASSIFICATION OF DOCUMENTS. CLAIMING OVER ONE HUNDRED THOUSAND INDIVIDUALS ARE AUTHORIZED TO CLASSIFY REC-63 6.5 14060 DOCUMENTS WITHIN THE GOVERNMENT AND FURTHER THAT PENTAGON PAPÉRS

DURING MORNING SESSION APPROXIMATELY TWENTY MEMBERS OF VIETNAMVETERANS AGAINST THE WAR (VVAW) WERE SEATED IN COURT ROOM IN VARIOUS FORMS OF UNIFORM. UPON ENTRANCE THEY INSISTED THEY BE SEATED AS A GROUP BUT THIS WAS DENIED BY U.S. MARSHALS AND THEY WERE SCATTERED THROUGHOUT AUDINCE. NO

WERE OVER-CLASSIFIED.

- 11 JAN 22 1973

LA 105-27952

PAGE TWO

INCIDENTS TOOK PLACE.

DURING LUNCH RECESS PRESS CONFERENCE HELD BY VVAW MEMBERS AT WHICH BOTH ELLSBERG AND RUSSO SPOKE. VVAW MEMBERS DID NOT ATTEND AFTERNOON SESSION. COURT ROOM WAS PACKED AND MANY WERE TURNED AWAY FOR LACK OF ROOM.

COURT RESUMES NINE THIRTY A. M. JANUARY EIGHTEEN NEXT WITH PRESENTATION OF EVIDENCE BY GOVERNMENT.

ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE JANUARY SIXTEEN LAST.

U.S. ATTORNEY NISSEN OF OPINION APPEARANCE OF VVAW MEMBERS WAS IN EFFORT TO INTIMIDATE JURY. HOWEVER, WAS OF OPINION IT MAY BACKFIRE AS THE PERSONAL APPEARANCE OF VVAW MEMBERS WAS SO MOTLEY AS TO CUSE DISCUST AMONG MEMBERS OF JURY.

END

COMMUNICATIONS SECTION

JAN 2 0 19 3

TELETYPE

NR 18 LA CODE

1106 PM NITEL 1-19-75 DLD

TO ACTING DIRECTOR (65-74960) ATTN: DID

FROM LOF ANGELES (185-27952) 2 P

MC LEK. SIO.

CREPUR

Mr. Notes E.S. L.

Mr. Seyers

Mr. Welters

Tele. Room

Mr. Kinley

Mr. Armeneng

Mr. Hervig

Mr. Ameneng

Mr. Fen

Mr. Baker
Mr. Callahan
Mr. Cleveland

Mr. Conrad — Mr. Dalbey — Mr. Gebbardt

ONLY TESTIMONY HEARD DURING COURT SESSION JAMUARY NIMETEEN VINSTANT WAS BY LIEUTENANT GENERAL WILLIAM DE PUY UNDER CROSS-EXAMINATION BY ATTORNEYS WEINGLASS AND CHAS. NESSON. DEFENSE ATTEMPTING TO PROVE THROUGH CROSS-EXAMINATION THAT INFORMATION CONTAINED IN WHEELER REPORT WAS SUBSEQUENTLY PUBLISHED BY GOVERNMENT INCLUDING A DIRECT REPORT OF GENERAL MESTMORELAND OF THE TET OFFENSIVE, ISSUED BY GOVERNMENT PRINTING OFFICE IN MINETEEN SIXTY MINE.

PRIOR TO JURY ENTERING COURT ROOM AT MORNING SESSION

DEFENDANT RUSSO DISTRIBUTED TO MEMBERS OF AUDIENCE AND EVEN TO

LIEUTENANT GENERAL DE PUY A STATEMENT CHARGING THAT GENERAL

DE PUY DURING HIS VIETNAM ASSIGNMENT WAS IN CHARGE OF SEARCH AND

DESTROY MISSION AND AS SUCH WAS ARCHISTOTAL THAT WAS

ACCOUNTABLE FOR THE DEATH OF THOUSANDS OF VIETNAMESE. WHEN

BROUGHT TO JUDGE BYRNE'S ATTENTION BY DEPARTMENTAL ATTORNEY

NISSEN, BYRNE SMARPLY CHASTISED THE DEFENSE AND FORBID ANY

PUTURE SUCH ACTIONS IN THE COURT ROOM. JUDGE BYRNE WAS MUCH

11 JAN 23 1973

9 7JAN29 1973

LA 105-27952 PAGE TWO

FIRMER IN HIS HANDLING OF DEFENSE ATTORNEYS THIS SESSION.

DEFENDANTS OCCURRED DUFING THIS COURT SESSION. ONLY NORMAL
IN-COURTROOM PRESS COVERAGE AFFORDED BY NEWS MEDIA. CROWD WAS
LESS THAN PRECEDING TWO DAYS AND VACANT SEATS AVAILABLE THROUGHOUT
BOTH SESSIONS.

COURT WILL RESUME NINE THIRTY A. M. JANUARY TWENTY TWO NEXT.

END

ACK FOR THO TELS

LMG FBI HO CLR TU AR

FEDERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

JAN 2 3 1973

TELETYPE

Mr. Feh . Mr. Boker \_ Mr. Callahan Mr. Cleveland Mr. Conrad . Mr. Dolbey Mr. Gebbardt Mr. Jenkins . Mr. Marshall Mr. Miller, E.S. Mr. Purvis \_ Mr. Soyars . Mr. Walters Tele. Room -Mr. Kinley . Mr. Armstrong Ms. Fierwic Mrs. Reesum

NR 018 LA CODE

958 PM NITEL 1-22-73 GLD

TO ACTING DIRECTOR (65-74060) ATTN: D I D

FROM LOS ANGELES (105-27952) 1P

MC LEK, SIO.

Wagner

COURT IN SESSION JANUARY TWENTY TWO INSTANT ONLY DURING

AFTERNOON SESSION. LIEUTENANT GENERAL WILLIAM DE PUY AGAIN THE

ONLY WITNESS HEARD UNDER CROSS-EXAMINATION. DEFENSE CONTINUING

TO ATTEMPT TO PROVE INFORMATION IN WHEELER REPORT HAD BEEN

PREVIOUSLY DISCLOSED BY GOVERNMENT BEFORE THE EXPOSURE BY

ELLSBERG.

REC-72 65 14060 4

COURT RESUMES NINE FORTY FIVE A.M., JANUARY TWENTY THREE

NEXT WITH DE PUY BACK ON STAND.

APPROXIMATELY IWENTY MEMBERS OF VIETNAM VETERANS AGAINST THE 24 1973
WAR AGAIN WERE IN COURT ROOM IN UNIFORM. NO INCIDENTS OR PRESS

ONFERENCES OCCURRED THIS DATE.

END

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In Reply, Please Refer to

File No.

### UNITED STATES DEPARTMENT OF JUSTICE

#### FEDERAL BUREAU OF INVESTIGATION

Pittsburgh, Pennsylvania

January 18, 1973

### DANIEL ELLSBERG

Daniel Ellsberg appeared on the Mike Levine Show, KDKA, Channel Two Television, Pittsburgh, Pennsylvania, from 12:00 noon to 12:30 PM on January 7, 1973, and a transcript follows, with the show in progress:

Daniel Ellsberg is speaking about Martha Mitchell, wife of former Attorney General of the United States, John Mitchell:

Ellsberg: ... that she had been taken away from the

phone in the midst , as the story put it,

of saying there's very dirty business going on.

Levine: You think she's got a lot more to say?

Ellsberg: That was about the time of the Watergate

unrest and there was a considerable implication that she has more to say then she's yet told us. I wish she would follow her earlier

practice and...

Levine: I think a lot of people would.

Ellsberg: ... Speak her mind directly.

Levine: Do I have a question from the audience? Yes.

Speaker: Yes. As a Vietnam Veteran, member of Vietnam

Veterans Against the War, I understand your former employer, the Rand Corporation ah conceived the

idea of the free fire zone.

Ellsberg: No, I don't think so.

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Speaker:

I believe I've read that somewhere. I just wondered if you had any background...

Ellsberg:

Oh no. I think that's, that's definitely wrong. Rand, Rand had rather little to do in the way of research on the war and it's a research organization except for a very large project on interrogating Viet Cong prisoners and defectors, ah the results of that were secret until rather recently, they're now available, this month's issue of Ramparts I noticed is devoted mainly to telling about that project, but aside from that, ah I'm quite sure they did not make that particular recommendation.

Levine:

Thank you. Yes sir.

Speaker:

Mr. Ellsberg, what law are you accused of violating?

Ellsberg:

Three statutes, the Espionage Statute, I'm not accused of espionage but of violating the Espionage Statute. Conversion, which translates either as misuse or theft of Government property; and conspiracy to commit these crimes, esentially.

Speaker:

Not treason?

Ellsberg:

Oh definitely not treason. I ah you know treason is the only crime defined in the American Constitution, I've recently learned, I should have known that from before and it was defined that way to make it as narrow a definition as possible; it consists of armed fighting against the United States. They want it to be quite clear that, the people that wrote our Constitution, that a citizen who told the truth to his fellow countrymen as they have done couldn't be accused of treason as they were accused by King George, III.

Levine: Why did you ask that particular question, sir?

Speaker: Oh. I wasn't familiar with the ah accusation...

Levine: Oh. I wondered if you were implying something

by that particular question.

Speaker: No. No, I wasn't. I was also wondering who

is bringing the accusations or who is filing

the formal charges.

Ellsberg: The Justice Department.

Speaker: The Justice Department.

Levine: Yes sir. May I hear from you, please.

Speaker: Yes. Why hasn't anyone else spoken out against

the war. I'm sure there must be other people like you who know facts and documents, but you seem to be the only one caught at it or do people

know that you brought this up again.

Ellsberg: Well no. Very. On the contrary very many people of course speak out on the war and even when it

of course speak out on the war and even when it comes to giving documents, classified or not, including some classified. There have been a whole

series of revelations again in the New York Times, Jack Anderson has had other, Anderson for after all got his Pulitzer Prize for the India Pakistan papers after my indictment. In fact I'm told by Anderson that his informant would not have

given him documents if it had not been for the

example of the Pentagon papers.

Speaker: Why is your case standing out so big. Why aren't

they going out after these other people?

Ellsberg:

Because no one has ever been prosecuted before for any revelation, classified or not, they go on all the time and people write memoirs all the time. What's different about my case is no aspect of what I did that has all had precedent even in terms of volume when you look at the memoirs that have been written, it's just that no previous administration has decided to test whether it can reinterpret the law so as to make it illegal. In other words, these other people have not violated the law, just as I havn't, but if I'm held ah the law can be interpreted in such a way as to make what I and they did illegal, they too will be prosecuted eventually and they'll, the public I think will then get a lot less information that it has gotten, which isn't enough.

Levine:

How significant consequences. How perilous is this prospect of your being held?

Ellsberg:

Well, it's a very perilous for the first amendment I think, the freedom of speech and the press. Even if I were sure that I would not...

Levine:

What are you saying, would about yourself?

Ellsberg:

Well, I think that ah ...

Levine:

Do you anticipate going to jail?

Ellsberg:

There's a 50-50 chance that in an indictment this complicated, it has 15 counts in the indictment and the Conspiracy Statute involved, that a jury will do some jury bargaining. This is clearly what the prosecution is counting on I would say; and that a conviction on one or two counts, ten or twenty years in other words might result. I think though even if I were sure and Tony Russo were sure I wouldn't go to jail we would be fighting this case just as hard and spending as much money and spending as much time on it because the precedent if there is a conviction, quite apart

Ellsberg:

from whether we lose our personal freedom, the precedent will lead to a lot more convictions of newsmen, a lot more people like Peter Bridge will be going to jail after that and as I say I think the persons, the freedoms of all Americans will have been abridged.

Levine:

May I hear from this gentlemen, please.

Speaker:

Yes. I'd be interested in knowing just how far you believe the Government would go in repressing acts not only of individuals such as yourself for the release of the pepers, but more in the lives of everyday citizens who protest against the war, and another part I'd like to ask is that have you received any support from elected officials around the Country.

Ellsberg:

To take your latter question, a number Oh yes. of elected officials, Pete McClusky for example has spoken a great deal about the first amendment aspects of this case and I would say has given very good support. Senator Grival also, and there's other examples. In terms of repression, I think that the Administration, and this is when I think of the major issues in this election facing us. This administration has shown a very unusual determination, ready to restrict the area of dissent and free speech. I find for example as the war begin, perhaps is about to be brought to an end and I hope that it is. That rather than talking about bringing people together and avoiding incrimination of various kinds which Senator McGovern did do both, the President and the Vice President are going out of their way to talk about no amnesty and to mobolize I think outrage and anger against dissenters of all people to make them the scapegoats for what ever feelings of guilt there may be in the public about what we have been doing the last several ...

Levine: How well do you think middle America, the great

American public feels about these growing

repressions?

Ellsberg: Well they've been told I think by, for three and one-half years by this Administration that

they what they feel they're silent after all that's what defines them in the President's usage and so he tells us and he tells them what they feel, he tells them for example that they don't care about Asian lives, that he tells them by simply omitting any mention of Asian casualties when he said the war is winding down or the war is over. He tells them that they don't like long-

haired hippies and they don't like bums and they don't like, there isn't these are people to a large extend who have a havit, a very understandable

habit of taking very seriously what a President tells them. I think he...

Levine: You're talking now, you're talking now about a

very popular American folk hero.

Ellsberg: The President. Whoever he is.

Levine: Just the other night, Halloween as a matter of fact, on my radio program, a man called in an in

all sincerity was deploring the criticizm of the President of the United States and he concluded very frankly by saying there otta be

a law.

Ellsberg: Well. That's what John Mitchell and Agnew thought

and then they, they're trying to see if they can't get one out of my case. But you know you sound

incredulous there ...

Levine: He said he was sincere about it, he meant it.

Ellsberg:

People who go door to door now I find are telling me they very commonly get the reaction when they canvas neighborhood from people. You're criticizing the President, after all there is a war on, is it right. I think a lot of people have come to think not just my Country right or wrong, but my President right or wrong and when you start to think that way you can dispense with elections.

Levine:

May I hear from one of these young gentlemen?

Speaker:

Dr. Ellsberg, you said that a person should follow his conscience, how one person's conscience tells them one thing and another person's tells them another, the direct opposite of that. Now what makes your conscience right, do you have some higher authority in your conscience that makes it right or above the law?

Ellsberg:

No, I certainly, you didn't hear me say that all that a person, that one's conscience tells you everything to do and answers all questions in the right way for any individual, you, me, or the President. I think that you should not put your conscience to sleep. I think your conscience is to be consulted when for example an official or a superior tells you ah keep your mouth shut about this, or this information is not to be given to anyone. I think when you read that you should use your mind, look what the contents of that really You should consult your own knowledge of the law. And the law is a little richer and more complicated than any law that tells you obey the boss. Which is the law that most, many people do rule their lives by. You have responsibilities to the Constitution as a citizen if you're an official, to the Congress, to the courts, to the laws in general. And if you find that as many people have found, Sergeant Ronnie Franks in

Ellsberg:

Thailand who gave the word about Lavelle's illegal bombing. If you find that what you've been ordered to conceal appears to be illegal or a deception of the American public then I think you should also, along with your head and your knowledge and everything you should ask your conscience: Do I have a right to cooperate, I think this is that a legal order, that's all. is the responsibility of any American citizen obviously your act will be judged by others, not just by your good intentions, not just by whether you honestly thought you were doing the right thing, but what the actual consequences of your act were, did you break a law, was that order legal or not. All these things will be considered and should be.

Levine:

May I hear from this gentlemen, please?

Speaker:

Yes. Is there any single thing that made you decide to release the Pentagon papers?

Ellsberg:

Well, It's hard to boil it down. I knew at the time that I gave them to the Senate that the President intended in fact to ah expand the war, not with certainty, this was in the Fall of 69, not with certainty but unless the Russians and Hanoi accepted terms far more favorable by the way then they seem to be accepting now, that seem to be bringing peace. They had far more ambitious aims at that time and unless they gave those aims, he expected in fact I think to take actions like the expansions at least to the air war into Cambodia and Laos and mine Haiphong if necessary. So knowing that I thought that maybe the exposure that in past administrations in which I have been a part, very similiar escalations have been undertaken for no better reason and the public has been misled just in the way they were being misled by this fifth President in a row, Nixon, to continue the war. I thought that

Levine:

Ellsberg: would give them a perspective on which to judge

whether he was really carrying out the aims for which they elected him. It took a while to get that information out, two invasions took place before they finally came out in the New York Times

and other papers and I'm sorry it took that long.

I take it then that if you had it to do over again, you'd do it just precisely the same way.

Ellsberg: No. No. As I, really following what I just said,

I think I waited too long for the Senate hearings.

Levine: Oh.

Ellsberg: The Senate is part of the problem too in a way,

they were under the thumb of the executive in this

case, they were afraid they'd get no more information from the executive.

Levine: But knowing what you've learned by this experience

maybe you would...

Ellsberg: I think I would have gone straight, no straight I

would have tried the Senate first and ...

Levine: You would have had an obligation to, wouldn't you?

Ellsberg: Definitely. Well it was, it would have been the

right thing to do and it is what I did do, the Senate then asked Secretary Laird for the documents, Laird refused them. I think ah that would have been the point to try to go further. Instead I waited,

really Senator Fulbright asked three more times.

Levine: No effort to contact the President though. It is

after all his war.

Ellsberg: From Fulbright.

Levine: From you.

Ellsberg: It's our war. I'm sorry he's the one who has

been conducting it and carrying it on, but we

all bear responsibility.

Levine: It's the Administration's war. I should have

said and our President and the previous President's

have been in control...

Well in going, according to Secretary Laird, Laird Ellsberg: just said it would not serve the national interest

for you, Senator Fulbright. He had no, Laird had no problems with the fact that Daniel Ellsberg, private citizen working with the Rand Corporation had that copy in his safe. He may or may not have known it. But if he had known it he wouldn't have worried. I was working for the Defense Department then at that time, I could be trusted with it, I

worked for the executive. But Senator Fulbright, Chairman of the Senate Foreign Relations Committee.

an elected official, it wouldn't serve the national interests for him to have it on a

classified basis, according to Secretary Laird.

Levine: They why didn't you, on your own initiative, of

your own volition go to the President.

Ellsberg: To the President?

Levine: To the President

Ellsberg: What I was trying to expose was in fact deception by the President. I was in the exact position lets say as an official of the Justice Department to be

very hypothetical here. Who came across documents

lets say proving that the Attorney General

hypothetically had dropped an anti-trust suit for \$400,000 for the Republican Committee or had bugged the Democratic National Committee. The issue is

what should such an official do or what if he hypothetically found such documents. The rules tell him go to the proper official, the Attorney

Ellsberg:

General. Or keep your mouth shut. I'd say that's not an adequate set of alternatives, but that's all the rules allow. What I did in similar circumstances was to go beyond the executive, first to the Senate, then ultimately to the fourth branch of Government as they call it, to the press. I think I, I think I should have done it earlier.

Levine:

May I hear from this gentlemen, please?

Speaker:

Dr. Ellsberg, it's possible now it seems to be that with the present makeup of the court, this court would have found the New York Times should have been enjoined from publishing your papers, from publishing the Pentagon papers. If you agree with that how, how much have gone about disseminating this information if you thought that the court would have enjoined the Times or any other newspaper.

Ellsberg:

That's an interesting question. It was, I didn't find myself in that situation and it's hard to say what I would have done. I certainly would have considered, I certainly would have considered seeing whether there were not newspapers who were alive to the very clear unconstitutionality of such a ruling. Such a ruling would have gone against all precedence in our history just as the injunction itself went against all precedence in our 200 years. Two Justices of the Supreme Court at least four Justices believed that the lower courts should never have allowed the injunction even temporarily as a matter of days, and that the newspaper should have disobeyed it. So I think probably there would have been newspapers even then who would have tested again their judgment of the Constitution and gone ahead.

Levine:

May I...

...further litigation it would have ended up Ellsberg:

in the courts ultimately of course.

Levine: I'd like to turn to this section of our audience,

please.

I'm a member of the Peace and Freedom Center and Speaker:

the Student Mobilization Committee and I think that we'd be very happy to stop demonstrating soon if peace comes. A question that's in our minds though is even if the agreements are signed, so the Hanoi-Kissinger agreements are signed, will there be a stable situation in which peace will

occur or were not ...

I would, I would think not. It would certainly be Ellsberg:

a far preferable situation so long as there is a cease fire, to the one now. I really think that a situation which we're not using our firepower directly on Vietnamese and the fire is now going on, is far preferable to the current situation but if you ask about the how long it's likely to last or persist, it's hard for me to believe that

the Vietnamese who've been fighting for

independence really for nationalistic purposes for so long will indefinitely allow us to have our million man army on our payroll in Vietnam and is right now. that's what the call the Vietnam herein the GBN the Saigon regime, it's esentially an American regime and American paid regime. It has office. it has

following only so far as they have the American payroll to dispense further, that's an element in Vietnamese politics that we have no right to maintain. And I think that ultimately that's

got to go.

Thanks for the question. There was a gentlemen Levine:

over here.

Speaker: Dr. Ellsberg, I was curious also about your own

personal motives behind your releasing of the Pentagon papers. In your mind did you see it truly as a social or a political or even moral responsibility to release these papers to the people to let them see what's been going on.

Ellsberg: Yes. I, I did. Is that your only question?

Speaker: Yes.

Ellsberg: It did come to me like that as from what I understood the responsibilities of an American citizen it was

essential that the American people have this information that had been withheld from them so

long.

Speaker: Well, I just was asking if there was an ulterior

motive.

Ellsberg: If someone else, if someone else had put it out,

if Laird had released it, if Fulbright had

released it, if McNamara had released it. I would have been very happy it would have released me

of the challenge to my own choice.

Levine: I take it from what you said earlier though you

havn't noticed a loosening up in personal or individual freedoms in this country since the

revelation, since the publication...

Ellsberg: You mean less repression or less... 'I think the...

Levine: Has there been more repression?

Ellsberg: Well, yes the the...

Levine: If the Declaration of Independence were put to a

referendum today, would it pass?

Ellsberg: I don't think that our recent administration,

not just this one but the ones before either, have been encouraging the American people to focus on that kind, the kind of problem that the Declaration of Independence was addressed to. The Declaration of Independence which talks

about the rights of people to revolution.

Levine: Inalienable rights.

Ellsberg: Well. The rights of revolution in this particular

case they were severing their bonds from

Government, that might be a little dangerous to

pass out as a handbill ah ...

Levine: Sure, that's firey talk.

Ellsberg: In Washington these days, as a matter of fact 13,000

people were arrested without warrant, without cause in so called May Day a year ago or so for

doing not much more than that.

Levine: You are comparing our President with King George

then.

Ellsberg: I'm not the first. I think to have noticed that

this recent...

Levine: That's terrible.

Ellsberg: That the recent Miami celebration had the aspects

of a coronation, both Time and Newsweek which are not radical revolutionary rags after all, both were drawn to that particular metaphor, the crowning of King Richard, the fact is that...

Levine: Do you agree?

Ellsberg:

I agree that what we're getting to and not just with King Richard Nixon has been an unchecked executive and that's what monarchy meant to Jefferson and Madison and the people who fought our revolution. They were nt against the monarch per say, in fact they had a lot of loyalty to George III but when they realized that he was ruling esentially without challenge, without appeal, there were no checks esentially on him to monitor him, that's what worried them - that they were heading toward tyranny, and that's what the Bill of Rights is meant to avert. People have been, I think, lately had their attention thoroughly distracted from the very possibility that their Government can become a threat to them, to their lives and to their happiness and property. Instead they've been, their attention has been distracted only to dangers of law and order which are real, real problems and other things but to be entire, distract them entirely from the fact that their Government can do what in fact tyrants were feared would do 200 years ago which is lead them into unnecessary wars, the fact is there isn't much worse than governor can do to his people.

Levine:

Okay, you're casting yourself then in the role of Paul Revere.

Ellsberg:

There were a lot of people in that revolution. Most of the people in the colonies...

Levine:

May I hear from this, oh right here.

Speaker:

Dr. Ellsberg, you support Senator George McGovern for the Presidency.

Ellsberg:

Oh. Very much so.

Speaker:

You keep saying that the problems of the previous Presidents, the four previous Presidents have that they've held a lot of information from the public, they've done deceitful things. How is George McGovern going to manage things differently.

Ellsberg:

Well I certainly wouldn't be urging the dethroning of King Richard, which I am in order, in order to encourage the coronation of a King George or anyone else. I don't think George McGovern or anyone else known to me not me, and not you probably, no one here I think could resist for long the kinds of temptations of power, the temptations to be misleading, to abuse secrecy, to manipulate the public, which the White House offers almost any human being who is going to reside in it and that's all we have to put there. don't have angels to put in, in that office. I think that George McGovern if he's to govern wisely and humanely needs the kind of monitoring the kind of challenging from Congress, the courts, the press, and the public that our past presidents in the last generation have not had on the whole. If he didn't have it, I would expect very similar behavior from him over time.

Levine:

May I hear from the gentlemen in the back row?

Speaker:

Dr. Ellsberg, this is somewhat related to a previous question, but in view of the fact that the newspapers that which initially published the Pentagon papers were in long standing sympathy with the antiwar movement and in view of the fact that the antiwar movement was given great impotence by your actions, to what extent was your motivations centered around the antiwar movement, or was it all the so called right to know, or were you motivated by the antiwar?

Ellsberg:

Really, the newspapers that got the papers there were 19 in all before the Supreme Court decision, including the night newspapers, they were far from being all in the heart of the antiwar movement.

The Christian Science Monitor for example and several others had been, if anything, fairly late critics of the war. They did, I think, include newspapers it seems to have told a good deal of truth to the American public and quite frankly since an arbitrary choice had to be made I thought they deserved the privilege of taking a risk, as had the antiwar movement that you speak of. I thought if they wanted to take a risk of injunction and prosecution they deserve to have that right.

Levine:

May I hear from the little lady?

Speaker:

Would you propose that the Senate or somebody of elected officials would have access to all classified material.

Ellsberg:

Would you say that again, I'm sorry.

Speaker:

Would you propose that the Senate or somebody of elected officials would have access to classified material in the interest of the public.

Ellsberg:

I think in not in... The Senate as a whole would certainly refuse that responsibility but in terms of some body, representing the Senate, some smaller part of the Senate, I would think yes that no classified material really should be entirely withheld from the Senate.

Speaker:

Is there legislature now?

Ellsberg:

No. There was a recent very interesting debate in Congress and Senator Grival tried to introduce into the Congressional record, Henry Kissinger's national studies, security study memorandum 1. There was a lot of discussion among Congressmen and Senators saying you're asking us to violate the law, this goes back to our earlier discussion. Grival and Fulbright and others said what law would this violate, Senator Scott and Church and various said well, we must have passed a law underlining the classifications...

Levine:

There must be one.

Ellsberg:

Two days. If it wasn't for Senator Javitts we wouldn't have been restricting ourselves all this time, Senator Javitts came back two days later, again in closed session, and said this is unbelievable, we have not passed any law, it is simply an administrative system.

Levine:

May I. I have time for one brief question.

Speaker:

Should you lose your case, what hope is left for America, which direction is it going to go.

Ellsberg:

Oh. America's fate doesn't rest on this case alone or any one case. If I win the case there will be a lot left to do in the future to protect our freedoms and not only from Richard Nixon, from bureaucrats, from officials in general. You can not have your freedom protected for you by the Executive Branch, that's the meaning of the Bill of Rights.

Levine:

I must...

Ellsberg:

The people in general have got to protect their own freedom.

Levine:

I'm sorry but our broadcast time is exhausted, we'll continue the discussion here in the studio, we're talking to Daniel Ellsberg, author of the new book, Papers on the War. This is Mike Levine. Chow.

COMMUNICATIONS SECTION

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DIRECT TESTIMONY OF BRIGADIER GENERAL PAUL GORMAN OCCUPIED ENTIRE COURT SESSION JANUARY TWENTY FOUR INSTANT. GORMAN'S DIRECT TESTIMONY IS EXPECTED TO BE CONCLUDED MID DAY JANUARY TWENTY SIX NEXT, AT WHICH TIME CROSS-EXAMINATION WILL BEGIN.

DEFENSE FILED MOTION THAT THE PROTECTIVE ORDER FORBIDDING DISCLOSURE OF MATERIAL CONTAINED IN FIRST EIGHTEEN VOLUMES OF THE MC NAMARA STUDY BE LIFTED AS THESE VOLUMES HAVE NOW BEEN INTRODUCED INTO EVIDENCE. MOTION DENIED.

THERE WILL BE NO COURT SESSION JANUARY TWENTY FIVE NEXT.

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AND ELLSBERG WERE INTERVIEWED BY PRESS CONCERNING THEIR VIEWS

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#### UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION Washington, D.C. 20535

January 23, 1973

DANIEL ELLSBERG,.
ANTHONY JOSEPH RUSSO, JR.

A confidential source who has given reliable information in the past furnished a copy of a form letter on January 17, 1973, bearing the letterhead "War Resisters League" and dated November, 1972. The letter solicited. subscriptions for War Resisters League 1973 Peace Calendar and was signed "Daniel Ellsberg." A Xeroxed copy is included in this memorandum.

War Resisters League has been publicly described as founded in 1923. It is the American section of War Resisters International, a worldwide pacifist movement.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Alliated with: War Re.

International and International Confederation for Disar

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November, 1972 .

339 Lafayette Street, New York 10012 212/228-0450

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Southern office anta Workshop in Nonviolence P.O. Box 7477 anta GA 30309

RL-Southwest orrester, N.W. Gur NM 87104 WRL-Midwest

WRL-Midwest East Brady St. skee WI 53202

o-publisher of VIN Magazine Dear Friend:

At the end of a talk I gave on a college campus recently, in the interval between the suspension of my trial and the elections, a student came up to me to say, "You make us realize we're not crazy." I had quoted earlier. I he himself was a lunatic. Perhaps a lunatic was simply a minority of one."

1984: In Orwell's description a time of permanent war, continuous "for the past 25 years . . . on the vague frontiers, whose whereabouts the average man can only guess at." (The Twenty-fifth Anniversary of the outbreak of our continuous Indochina War is December 19, 1972.)

A time of continuous surveillance of our private lives, a time of a "doublethink" slogan like "War is Peace" (the theme on which the President has just campaigned with such success). In 1984, "control of the past," and hence of the future, is achieved not by locking up historical documents—like the Pentagon Papers—but by falsifying the documents themselves. Winston Smith's daily job was "correcting" history in this fashion. (Just like the nearly 200 officers under General Lavelle's command who were spending up to three hours each night last year writing false accounts of until a minority of one, Sergeant Lonnie Frank, decided to tell the truth to a Senator.) As I have traveled across the country in the Fall of 1972, dition induced by the regime has not always seemed a dozen years away.

Meanwhile, some of the sanest people I know continue to be an organization started in 1923 called the War Resisters League. Face to face contact with some URL members who were on their way to prison as draft resisters, witnesses to the evil of our longest war, helped me to take the step of it to Senator Fulbright.

My interest in meeting members of WRL had first been aroused by a friend who gave me copies of two of their annual peace calendars, one an anthology of antiwar poetry, another a collection of statements by Gandhi. Since then, with subscriptions to WIN, a bi-weekly magazine put out by WRL.

I urge you to do the same. Their 1973 Peace Calendar records the history of the League during its 50 years, and also of nonviolent resistance in labor, in civil rights, and the fight for civil liberties. The calendars will introduce you and your friends to a community of resistance, committed to nonviolent change, a community that can make it easier for you-as it has for me-to carry out Winston Smith's prescription that it was "by staying same that you carried on the human heritage."

Sincerely.

Elsten

COMMUNICATIONS SECTIONS SECTIO

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TO ACTING DIRECTOR (65-74060) ATTN: DID

FROM LOS ANGELES (105-27952) 1P

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CROSS-EXAMINATION OF LT. GENERAL WILLIAM DE PUY WAS COMPLETED

DURING MORNING SESSION 1-23-73. NEXT GOVERNMENT WITNESS WAS BRIGADIER

GENERAL PAUL F. GORMAN, WHO INTRODUCED INTO EVIDENCE THE FIRST 18

WLUMES OF THE MC NAMARA STUDY. GORMAN CITED THE USE A FOREIGN

POWER COULD HAVE DERIVED FROM THEIR RELEASE IN 1969 BOTH IN THE FIELDS

OF MILITARY INTELLIGENCE AND INTERNATIONAL RELATIONS. GOVERNMENT

DIRECT QUESTIONING OF GENERAL GORMAN EXPECTED TO LAST TWO DAYS AND

CROSS-EXAMINATION BY DEFENSE SEVERAL DAYS.

NO DEMONSTRATIONS OR INCIDENTS OCCURRED THIS DATE AND THERE WAS ONLY NORMAL IN COURT ROOM NEWS MEDIA COVERAGE.

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Mr. Cleveland
Mr. Conrad
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Mr. Soyars
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Mr. Marshall \_ Mr. Miller, E.S. Mr. Purvis \_\_\_

Mr. Soyars \_ Mr. Walters

Mr. Kinley \_\_\_\_ Mr. Armstrong

Ms. Herric . Mr. Neeum

DIRECT TEST MONY OF BRIGADIER GENERAL PAUL GORMAN
CONCLUDED DURING COURT SESSION 1/26/73. CROSS EXAMINATION
OF GENRAL GORMAN IS BEING HELD IN ABEYANCE UNTIL JUDGE
BYRNE HAS TIME TO EXAMINE DAMAGE ASSESSMENT ANALYSIS THAT
THE DEPARTMENT OF DEFENSE HAS MADE ON THE DISCLOSURE OF
THE MC NAMARA STUDY. THESE ANALYSIS AND RELATED DOCUMENTS
WERE DELIVERED BY A COURIER FROM THE DEPARTMENT OF DEFENSE
LATE AFTER NOON 1/26/73. UPON COMPLETION OF JUDGE BYRNE'S
REVIEW HE WILL MAKE A DETERMINATION IF THIS MATERIAL SHOULD
BE RELEASED TO THE DEFENSE ATTORNEYS.

FRANK BARTIMO, DEPARTMENT OF DEFENSE, WAS BROUGHT BACK TO THE STAND FOR FURTHER CROSS EXAMINATION BY THE DEFENSE ATTORNEYS RELATING TO HIS KNOWLEDGE OF END PAGE ONE

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PAGE TWO
DEFENSE DEPARTMENT ANALYSIS OF THE DAMAGE CAUSED BY THE
RELEASE OF THE PENTAGON PAPERS.

DURING TESTIMONY HEAR D 1/26/73, IT WAS BROUGHT OUT THAT A COMMUNICATIONS INTERCEPT HAD BEEN MADE BY THE BRITISH OF A CONVERSATION BETWEEN KOSYGIN AND BRESHNEV WHEN KOSYGIN WAS IN LONDON.

ON MONDAY, 1/29/73, JUDGE BYRNE HAS CALLED FOR KNOWLEDGABLE PEOPLE FROM DEFENSE DEPARTMENT TO TESTIFY OUTSIDE OF JURY AS TO THE EXTENT OF THE DAMAGE ACCESSMENT REPORT. CROSS EXAMINATION OF GENERAL GORMAN WILL BEGIN 1/30/73.

ADM INISTRAT IVE:

DEPARTMENTAL ATTORNEY DAVID NISSEN, HAS ADVISED THAT INCLUDED IN THE DEFENSE DEPARTMENT DOCUMENTS THAT JUDGE BYRNE IS REVIEWING ARE SOME EXTREMELY SENSITIVE DOCUMENTS. IN THE EVENT THAT BYRNE RULES THAT THE DEFENSE LAWYERS SHOULD HAVE. THIS MATERIAL, NISSEN HAS STATED HE WILL ASK FOR A CONTINUANCE IN ORDER TO CONSULT WITH HIGHER AUTHORITY BEFORE AGREEING TO RELEASE OF THIS MATERIAL TO THE DEFENSE. IN EFFECT, THIS COULD LEAD TO DISMISSAL OF CHARGES AGAINST ELLSBERG AND RUSSO RATHER THAN PRODUCE THE MATERIAL.

LA 105-27952

PAGE THREE

IN ALL PROBABILITY, THE INDIVIDUALS WHO WILL TESTIFY BEFORE JUDGE BYRNE ON 1/29/73 WILL BE JOHN MARTIN FROM THE JUSTICE DEPARTMENT AND MR BUZZARD, CHIEF LEGAL COUNSEL FROM DEFENSE DEPARTMENT.

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## In the Supreme Court of the United States

OCTOBER TERM, 1972

No. Cy Cy

SAMUEL L. POPKIN, PETITIONER.

v.

UNITED STATES OF AMERICA,
RESPONDENT.

# PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

WILLIAM P. HOMANS, JR.

DANIEL KLUBOCK

FEATHERSTON, HOMANS, KLUBOCK & GRIFFIN
45 School Street

Boston, Massachusetts 02108

MELVIN L. WULF

JOEL GOBA

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
22 East 40th Street

New York, New York 10016

Attorneys for Petitioner

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## Page Constitutional Provisions United States Constitution, Amendments I and V. passim Statutory Provisions 18 U.S.C. §371 ..... 18 U.S.C. §641 ..... 18 U.S.C. §2071 .... 18 U.S.C. §2314 ..... 18 U.S.C. §2315 ..... 18 U.S.C. §2514 ..... 21 18 U.S.C. §2516 ..... 21 28 U.S.C. §1254(1) ..... 28 U.S.C. §2101 ..... Miscellaneous Hume, "A Chilling Effect On The Press," The New York Times Magazine, December 17, 1972, pages 13, 82-83 Nejelski and Lerman, "A Researcher-Subject Testimonial Privilege: What To Do Before The Subpoena Arrives," 1971 Wisc. L. Rev. 1085 ......

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## In the Supreme Court of the United States

OCTOBER TERM, 1972

No.

SAMUEL L. POPKIN, PETITIONER.

v.

UNITED STATES OF AMERICA,
RESPONDENT.

#### PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Petitioner Samuel L. Popkin prays that a writ of certiorari issue to review the opinion and judgments of the United States Court of Appeals for the First Circuit entered October 13, 1972, and November 20, 1972, which affirmed a judgment of the United States District Court of the District of Massachusetts finding petitioner in contempt under 28 U.S.C. §1826(a).

## Opinion Below

The first opinion of the Court of Appeals, dated May 3, 1972, has been published at 460 F.2d 328, and is printed in

Appendix A hereto. Subsequent opinions and orders of that court were not published, and are printed herein as follows: May 17, 1972 (Appendix B); July 12, 1972 (Appendix C); October 13, 1972 (Appendix D); October 30, 1972 (Appendix E); November 7, 1972 (Appendix F); November 17, 1972 (Appendix H); November 20, 1972 (Appendix I).

#### Jurisdiction

The judgments of the Court of Appeals were entered on October 13, 1972, and November 20, 1972. The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

#### Questions Presented

- 1. Did the witness, a scholar, author and teacher working in a current and controversial field, whose work depends upon access to and protection of confidential sources, have just cause not to answer particular questions asked by a grand jury calling for disclosure of his confidential sources, when his testimony would ultimately restrict the free flow of information to the public, and when the questions had a remote and tenuous relationship to the subject matter being investigated, where there was no showing of any need for the information sought or that there were no available alternative sources?
- 2. When a witness has been given immunity restricted to a particular subject matter, is he entitled to be informed of the pertinency of a question to that subject matter when pertinency is not apparent on its face, and when the question threatens to intrude upon First Amendment rights?

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grand jury in United States, gon Papers. Poscience at Har in the field of was first called At that time, which was denitime. In Octob testify before

<sup>&</sup>lt;sup>1</sup> That in cases of civil contempt under 28 U.S.C. §1826(a) the petitioner has 90 days within which to file his Petition for Certiorari, 28 U.S.C. §2101(c), was established in *United States* v. Egan, 408 U.S. 41.

## Constitutional Provisions Involved

The First Amendment to the United States Constitution provides in pertinent part:

"Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances."

The Fifth Amendment to the United States Constitution provides in pertinent part:

"No person ... shall be ... deprived of ... liberty ... without due process of law...."

## Statutory Provisions Involved

The pertinent portions of the following statutes are set forth in Appendix K, pp. 58-68: 18 U.S.C. §§793, 2314, 2315, 2514, 2516, and 28 U.S.C. §1826.

#### Statement of the Case

1. Proceedings Below. This case arises out of the same grand jury investigation that was involved in *Gravel v. United States*, 408 U.S. 606 (1972), and concerned the Pentagon Papers. Petitioner, an Assistant Professor of Political Science at Harvard University and a researcher and writer in the field of the United States involvement in Vietnam, was first called before the grand jury in August of 1971. At that time, he filed a motion to quash the subpoena, which was denied. However, he was not questioned at that time. In October of 1971, petitioner was again called to testify before the grand jury. He filed a motion for a

protective order at that time along with numerous affidavits showing that he was involved in research and writing in sensitive areas concerning United States policy in Vietnam, that his research and writing depended upon confidential sources, and that disclosure of his confidential sources would seriously inhibit his and others' work in this area. The District Court granted him transactional immunity and ordered him to testify, denying his motion for a protective order. Petitioner was called before the grand jury again in January, 1972, and on March 27, 1972. He answered numerous questions but refused to answer others on the ground that they sought confidential sources of information relating to his scholarly research, that they bore a demonstrably remote and tenuous relationship to the subject of the grand jury's investigation, and that the government refused to explain their relevance, if any, thus violating his First Amendment rights. The District Court found him in contempt for refusing to answer nine questions, of which the government pressed seven on appeal to the Court of Appeals for the First Circuit.

On May 3, 1972, the Court of Appeals held that petitioner need only answer three of the seven questions, the majority ruling the other four objectionable because "they are badly phrased". 460 F.2d at 337. The third Judge stated:

"The generality of the opinion questions here, the apparent basis for the opinion being pursued, and the idea of using one scholar to speculate about the sources of others' work, without any showing of strong need therefor, are repugnant to me." 460 F.2d at 335.

Following the Opinion and Judgment of the Court of Appeals on May 3, 1972, petitioner moved for a stay of the Court's mandate, pending the filing of a petition for writ of certiorari, whereupon, by order dated May 17, 1972, the

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<sup>&</sup>lt;sup>2</sup> Subsequentl Appendix F, p.

Court of Appeals stayed its mandate "until further order of court—said matter to be considered at the close of the Supreme Court Term in June, 1972". (Appendix B)

Upon reconsideration and after a hearing following the close of the October, 1971, Term of this Court, the Court of Appeals on July 12, 1972, stated its "view that its opinion of May 3, 1972, requires revision in the light of certain recent decisions of the Supreme Court." (Appendix C) It ordered the government, if able, to file a disclaimer of electronic surveillance and further stated:

"Upon the filing of such disclaimer this Court will reconsider in the light of those cases the merits of appellant's opposition to the orders of the district court holding him in contempt. It will then issue a new order, from which appellant, or the government, may, if desired, seek certiorari.

"No purpose would be served in appellant seeking certiorari at this time. The stay, previously entered, is to remain in force."

On October 13, 1972, the government having filed "a sufficient disclaimer of electronic surveillance," the Court of Appeals ordered the District Court's order of contempt affirmed with respect to the three questions held valid by the Court of Appeals in its opinion and order of May 3, 1972, "unless within 21 days appellants (sic) stipulate in writing to answer them upon demand". (Appendix D)

In the remainder of its order of October 13, 1972, the Court of Appeals vacated without prejudice the order of contempt of the District Court as to the remainder of the questions dealt with in that Court's opinion of May 3, 1972,

<sup>&</sup>lt;sup>2</sup> Subsequently, the order was amended to read "37 days." See Appendix F, p. 47, infra.

and remanded "the case to the district court for further proceedings, and questioning of appellant, if such be desired."

On October 26, 1972, petitioner filed in this Court an Application for Stay of Mandate. In opposition to that application, the government filed a memorandum stating that there was no factual or legal basis to petitioner's application because

"the only contested ground of the May 3 decision of the Court of Appeals is its determination that the so-called 'scholars' privilege' urged upon the court has no application where, as here, the witness is questioned not about his sources but merely about conversations with other scholars"

After this Court denied petitioner's Application for Stay, petitioner submitted a Stipulation to the Court of Appeals (Appendix G). Relying upon the government's representations to this Court, the Stipulation stated that since the government represented that the questions referred merely to conversations with other scholars, petitioner would answer the questions. However, the Court of Appeals rejected that Stipulation on November 17, 1972 (Appendix H), thus making clear that its Order of October 13, 1972 (Appendix D) was meant to change its original Opinion of May 3, 1972.

<sup>3</sup> Memorandum For The United States In Opposition, pp. 3, 4-5, Popkin v. United States, October Term, 1972, No. A-444.

In its May 3 Opinion, the Court of Appeals stated:
"We therefore conclude that the two questions seeking the names of persons interviewed who gave him knowledge of participants in the Pentagon Papers study should be answered, at least to the extent that the persons were not government officials or other participant sources.... Were it to become clear that a question delved into confidential relationships with such persons, we are not sure the grand jury would see fit to pursue its inquiry. If it did, however, [we] would at least have a factual setting

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5 Lest there be of the grand jury 1089 (9th Cir.,

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Since petitioner did not file a further stipulation, on November 20, 1972, the Court of Appeals affirmed the order of contempt (Appendix I), issued its mandate forthwith, revoked bail, and petitioner was incarcerated on November 21, 1972. On November 28, 1972, the grand jury was discharged at the government's request, and petitioner was released from jail.5

2. Statement of Facts. All of the facts stated herein are to be found in the record of this case.

The petitioner, Samuel L. Popkin, is an Assistant Professor of Government at Harvard University, a Research Associate at the Center for International Affairs, a member of the editorial board of the journal "Public Policy", and an author of a number of papers and articles on Vietnam and United States policy in Southeast Asia. He has taught and participated in seminars on the same subjects. In the course of his research, he has spent time in Vietnam, and has discussed with numerous people knowledgeable in the field matters concerning United States policy in Vietnam.

enabling us to address the issue less theoretically." 460 F.2d

When the Court of Appeals rejected petitioner's Stipulation that he would answer as to all but confidential sensitive sources (Appendix II), it made clear that its October 13 order (Appendix D) modified its May 3 opinion to require that petitioner answer as to all sources.

If any doubt remained, it was dispelled at the hearing before the District Court on November 21, 1972 when the government stated that it had no interest in petitioner's conversations with other scholars. The government stated it would call petitioner before the grand jury only if he agreed to answer the questions as to confidential sensitive sources. (Appendix J, pages 52-54, infra)

5 Lest there be any question as to mootness because of the discharge of the grand jury, see Bursey v. United States, 466 F.2d 1059, 1088-1089 (9th Cir., 1972), petitioner would like to point out two matters:

a) The grand jury in the Caldwell case had expired prior to

the decision in Branzburg v. United States, 408 U.S. 665;

b) The government explicitly stated that it was asking for discharge of the grand jury because it did not intend to present further evidence until after the case of United States v. Ellsberg had been completed, and implied that at that time petitioner might be recalled.

These people included representatives of the United States, both in and outside the Armed Services.

Affidavits were submitted from 24 scholars, some of whom had extensive government experience, such as Professor John K. Galbraith, former Ambassador to India, and Professor Edwin O. Reischauer, former Ambassador to Japan, which established the importance of confidentiality to the kind of research being done by Professor Popkin.

In the course of the proceedings, it became apparent that the grand jury was investigating aspects of the publication of the study now known as the Pentagon Papers. This was told to Popkin at his October 14 appearance before the grand jury, and confirmed by the testimony of the foreman of the grand jury on March 21, 1972.

The authorization of the prosecutors conducting the grand jury proceedings is to investigate violations of 18 U.S.C. §641 (retention of records with intent to convert), 18 U.S.C. §793 (gathering and transmitting of national defense information), 18 U.S.C. §2071 (concealment or removal of public records or documents), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. §371). The District Court found, in its order of October 29, 1971, which Popkin was found by the District Court to have violated, that the grand jury is "engaged in an inquiry into alleged violations of Chapter 37 and Sections 2314 and 2315 of Title 18, United States Code..." The only statute that is common to the authorization and the subject of the inquiry is 18 U.S.C. §793.

At his appearance before the grand jury on March 27, 1972, Popkin testified that he had no knowledge as to whether any person possessed the Pentagon Papers in Massachusetts prior to June 13, 1971 (the date of the first publication), and that he knew nothing about the distribu-

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tion of the papers for publication or any plans to distribute them.

He testified that he did have an opinion as to whether anyone possessed the Pentagon Papers in Massachusetts, since,

"In the course of my research I have become aware that many persons were using portions of studies which probably included this study in preparation of their work, and in addition, many people who have lived in Massachusetts have publicly stated that they worked on or had access to this study; whether or not they had access in Massachusetts, I do not know."

He first heard of the existence of the study now called the Pentagon Papers in late 1967 or early 1968 in an interview which occurred either in Connecticut or Massachusetts, and since then had numerous interviews through which he gained some knowledge of the study, though it was just one of many studies having no particular significance at that time.

All of the information he had concerning the study, on which he based his opinions, came from interviews in the course of his research, other than the information he has acquired from public sources.

The questions at issue, which he refused to answer (and concerning which he requested but was not advised as to their pertinency), fall into three groups: (1) his opinions as to who possessed the papers, (2) his knowledge of who worked on the study, and (3) whether Daniel Ellsberg ever discussed with him the content or existence of the Pentagon Papers between January 1, 1971 and June 13, 1971. The seven questions are:

1. Q. What is the opinion as to persons you be-

lieve possessed a copy of the Pentagon Papers prior to June 13, 1971?

- 2. What is your opinion as to persons you believe possessed a copy of the Pentagon Papers in Massachusetts prior to June 13, 1971?
- 3. Would you please name them, those persons who furnished you information which caused you to form an opinion as to persons you believe possessed a copy of the Pentagon Papers in Massachusetts prior to June 13, 1971?
- 4. Who was the conversation with discussing the documents or decisions indicating that person had knowledge or possession of the Pentagon Papers?
  - A. Persons I interviewed in the course of my scholarly research.

Please name them.

- 5. Who are the persons you interviewed in order to acquire this knowledge of who participated in the Pentagon Papers study?
- 6. Who are those persons to whom you are referring with regard to conversations in the District of Massachusetts which led you to the knowledge of who the participants were in the Pentagon Papers study?
  - A. Persons I interviewed in the course of my scholarly research.

Would you please name them?

- 7. Did Daniel Elsberg ever discuss with you the content or existence of the Pentagon Papers between January 1, 1971 and June 13, 1971?
  - A. Any information I might have comes from the course of my scholarly research.

[Question repeated]

[yes or no]

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In Bursen denied, 466 Appeals for was required connection' 1 nal conduct v the witnesse answer ques rights." Tha 665, was in question of grand jury, a ing standard Attorney Gen 86 S.Ct. 1148 (1960) 361 U.S at 1091.

The First ( its May 3 Op stated: "We appellant hav the grand jury to answer. Hi

<sup>6</sup> See note 4, 87

It is now clear that these questions require petitioner to identify confidential sensitive sources, not merely conversations with other scholars. (Appendices D, G, H, I, J)

#### Reasons for Granting the Writ

I. THE DECISION BELOW CONFLICTS WITH THE DECISION OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

In Bursey v. United States, 466 F.2d 1059, rehearing denied, 466 F.2d 1090, 1091 (9th Cir. 1972), the Court of Appeals for the Ninth Circuit held that the grand jury was required "to establish that there was a 'substantial connection' between the information sought and the criminal conduct which the Government was investigating before the witnesses could be held in contempt for refusing to answer questions that cut deeply into First Amendment rights." That court held that Branzburg v. Hayes, 408 U.S. 665, was in no way inconsistent, since it dealt with the question of whether a witness must appear before the grand jury, and it did "not purport to disavow the balancing standards enunciated in such cases as DeGregory v. Attorney General of New Hompshire (1966) 383 U.S. 825, 86 S.Ct. 1148, 16 L.Ed. 2d 929, and Bates v. Little Rock (1960) 361 U.S. 516, 80 S.Ct. 412, 4 L.Ed. 2d 480." 466 F.2d at 1091.

The First Circuit, however, rejected that approach. In its May 3 Opinion (Appendix A), the Court of Appeals stated: "We conclude that, even if the questions put to appellant have not been demonstrated to be relevant to the grand jury's inquiry, this would not justify his refusal to answer. His invocation of the First Amendment adds

<sup>6</sup> See note 4, supra, pp. 6-7.

nothing to his relevancy claim." 460 F.2d at 332. This view of the First Circuit was reaffirmed upon its reconsideration as shown in its orders of October 13 (Appendix E), November 17 (Appendix H), and November 20 (Appendix I).

- II. THE COURT BELOW HAS DECIDED IMPORTANT QUESTIONS OF FEDERAL LAW WHICH HAVE NOT BEEN BUT SHOULD BE SETTLED BY THIS COURT.
  - A. Whether the facts in this case require a balancing of the interest of the public in protecting petitioner's confidential sources of information against the interest of the public in requiring petitioner to disclose those sources.

Even if the Ninth Circuit is not thought to be in direct conflict with the First Circuit, there is certainly need for a further clarification of *Branzburg* since it left undecided some very important issues of federal law.

Since the decision of this Court in Branzburg v. Hayes, 408 U.S. 665, numerous representatives of the press from all over the country have been subpoenaed to appear before grand juries and courts to testify as to their confidential sources of information.\* Many of these reporters have been jailed. The Branzburg case indicated that protection would be provided members of the press in appropriate cases, but it left unanswered the parameters of that protection. It is of utmost importance to this country that some guidelines be given to lower courts which seem to have taken the position that no protection is afforded to members of the press, despite the contrary indications of this Court.

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In addition November 1 of the government there is no these quest sources, not

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<sup>&</sup>lt;sup>7</sup> We see no distinction between petitioner's concept of relevance or pertinence and the Ninth Circuit's concept of "substantial connection."

<sup>\*</sup> See Hume, "A Chilling Effect On The Press," The New York Times Magazine, December 17, 1972, pages 13, 82-83.

<sup>&</sup>lt;sup>8</sup> Petitioner's rejected by tha questions as to Subsequently, a petitioner again government statestify as to cohim only if he sensitive source

In addition. Memorandum i petitioner would sources and to inquiry" when sensitive source October 13, 19 changing the ((Appendices D) of November 2

This ease, unlike Branzburg, Caldwell, and Pappas, presents an excellent opportunity to confront this issue in the context of a complete record with a great deal of testimony, and with only a few contested questions which present the issue clearly. This case requires a decision on a case-by-case, question-by-question basis. Unlike Branzburg, petitioner here had no knowledge of criminal activity. Unlike Caldwell, he did appear before the grand jury and testified at some length. Unlike Pappas, there is a complete record.

In addition, since the Orders of the Court of Appeals of November 17, 1972, and November 20, 1972, and the position of the government explicitly stated on November 21, 1972, there is no question but that the government sought by these questions the disclosure of confidential sensitive sources, not merely conversations with other scholars.

Therefore, this case presents an opportunity to examine some of the basic issues involved in guiding the lower courts to reach decisions which would give the press the protection still open under the *Branzburg* decision. Petitioner's claim is that the First Circuit should have applied

B Petitioner's Stipulation filed with the Court of Appeals, and rejected by that Court, made clear that he was willing to answer the questions as to conversations with other scholars. (Appendices G, H) Subsequently, on a hearing on a motion to vacate in the District Court, petitioner again indicated that willingness, whereupon counsel for the government stated that the government would not recall petitioner to testify as to conversations with other scholars—that they would call him only if he indicated his willingness to testify as to confidential sensitive sources. (Appendix J, pp. 52-54, infra)

In addition, the United States represented to this Court in its Memorandum in Opposition to Petitioner's Application for Stay that petitioner would have the opportunity to answer as to non-confidential sources and to see if the grand jury would "see fit to pursue its inquiry" when it became clear that it was delving into confidential sensitive sources. However, the orders of the Court of Appeals of October 13, 1972, November 17, 1972, and November 20, 1972, changing the Opinion of May 3, 1972, foreclosed that possibility. (Appendices D, H, I) See also the decision of the District Court of November 21, 1972 (Appendix J, pages 56-57)

a balancing test to determine whether the witness' First Amendment claims should be upheld, and that such a test involves the question of relevance or, as the Ninth Circuit put it, whether there was a "substantial connection" between the information sought and the subject under investigation.

Mr. Justice White, speaking for himself and three other Justices, said in Branzburg v. Hayes, 408 U.S. 665, 708, "... there is no First Amendment privilege to refuse to answer the relevant and material questions asked during a good-faith grand jury investigation..." The language is not used loosely. The concept of relevance redounds throughout the opinion. E.g., 408 U.S. at 682, 685, 690-691. Most significantly, this Court, in dealing with the case of Pappas, held "that [Pappas] must appear before the grand jury to answer the questions put to him, subject, of course, to the supervision of the presiding judge as to 'the propriety, purposes, and scope of the grand jury inquiry and the pertinence of the probable testimony." 408 U.S. at 709. (Emphasis added).

Similarly, Mr. Justice Powell, concurring, speaks of "the obligation of all citizens to give relevant testimony with respect to criminal conduct." 408 U.S. at 710.

Petitioner's primary claim below was "that, at least when a grand jury inquiry impinges on the First Amendment rights of a witness, a preliminary showing of relevancy is required." United States v. Doe, Appeal of Popkin, 460 F.2d 328, 331 (1 Cir. 1972). To this claim the Court of Appeals responded: "We conclude that, even if the questions put to appellant have not been demonstrated to be relevant to the grand jury's inquiry, this would not justify his refusal to answer. His invocation of the First Amendment adds nothing to his relevancy claim." 460 F.2d at 332.

The converse of this Court's repeated statement in Branzburg of the requirement that a witness "answer the

relevant an grand jury questions w pursued. A albeit befor 408 U.S. 66: "[t]he conc proceedings F.2d 328, 33

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<sup>&</sup>lt;sup>9</sup> Basic to Pescientist, writing of an important See Nejelski and lege: What To 1085. It is the protected.

relevant and material questions" (408 U.S. at 708) of the grand jury is the absence of a requirement to answer questions which are not relevant to the investigation being pursued. Nonetheless, the Court of Appeals, speaking, albeit before the date of decision in Branzburg v. Hayes, 408 U.S. 665, expressly rejected petitioner's reliance upon "[t]he concept of relevance" as applicable to grand jury proceedings. United States v. Doe, Appeal of Popkin, 460 F.2d 328, 331-332 (1 Cir. 1972).

And, it is important to note, it did not do so upon the basis of any distinction between "[t]he informative function asserted by representatives of the organized press" and that "performed by lecturers, political pollsters, novelists, academic researchers [of whom petitioner is one], and dramatists." Branzburg v. Hayes, 408 U.S. 665, 705.

Petitioner's major contention was that when important First Amendment rights of a witness are asserted, the degree of relevance required increases. Put another way, petitioner proposed a balancing test identical to that proposed by Mr. Justice Powell in his concurring opinion in Branzburg v. Hayes, 408 U.S. at 709-710, and identical to that applied by the Ninth Circuit in Bursey, but which was not applied by the Court of Appeals for the First Circuit here because of its view that petitioner's "invocation of the First Amendment adds nothing to his relevancy claim." 460 F.2d at 331, 332.

This Court did not apply a balancing test in *Branzburg* because none of the three cases dealt with presented the issue as does the case here. Branzburg appeared before

<sup>&</sup>lt;sup>9</sup> Basic to Petitioner's position is the assumption that the political scientist, writing in the field of contemporary controversial problems of an important nature, stands in the same shoes as a newsman. See Nejelski and Lerman, A Researcher — Subject Testimonial Privilege: What To Do Before The Subpoena Arrives, 1971 Wisc.L.Rev. 1085. It is the public's right to information that is sought to be protected.

Ninth Circuit viewed "the issue before it as whether Caldwell was required to appear before the grand jury at all, rather than the scope of permissible interrogation..."

408 U.S. at 679.

Thus, petitioner's primary contention in the court below was directed toward an important issue expressly left open in *Branzburg v. Hayes*, 408 U.S. 665. He contends that his First Amendment claim required a question-by-question determination in the manner suggested by the concurrence of Mr. Justice Powell.

"[I]f the newsman is called upon to give information bearing only a remote and tenuous relationship to the subject of the investigation, or if he has some other reason to believe that his testimony implicates confidential source relationships without a legitimate need of law enforcement, he will have access to the Court on a motion to quash and an appropriate protective order may be entered." 408 U.S. at 710.

Given the significant distinctions between what is involved here and what was involved in the three cases which were the subject of *Branzburg*, this case is exactly that posited by Mr. Justice Powell. Petitioner's case is the case required to "be judged on its facts by the striking of a proper balance between freedom of the press and the obligation of all citizens to give relevant testimony with respect to criminal conduct. The balance of these constitutional and societal interests on a case-by-case basis accords with the tried and traditional way of adjudicating such questions." 408 U.S. at 710.12

<sup>12</sup> Subsequent to the *Branzburg* case, numerous representatives of the press have been subpoenaed to appear before grand juries or courts, and many have been incarcerated. Only the Ninth Circuit seems to have applied the proper standards to protect a witness.

The balancing test.

Exactly what considerations enter the balancing test need not be in issue at this point. Mr. Justice Powell suggests that to be considered in the balance are whether the information sought bears "only a remote and tenuous relationship to the subject of the investigation," and whether the testimony sought "implicates confidential source relationships without a legitimate need of law enforcement." 408 U.S. at 710. He would probably accept in addition Mr. Justice Stewart's criteria applied in this context:

- (1) Whether the government has shown that "there is probable cause to believe that the newsman has information which is clearly relevant to a specific probable violation of law";
- (2) Whether the government has demonstrated "that the information sought cannot be obtained by alternative means less destructive of First Λmendment rights"; and
- (3) Whether the government has demonstrated "a compelling and overriding interest in the information". 408 U.S. at 743.

The questions petitioner has been ordered to answer fall before any balancing test. They do implicate confidential source relationships and bear only the most tenuous relationship to the subject of the investigation. As the Court of Appeals noted, "the questions asked in the grand jury were of the broadest and most speculative kind, bearing no hallmark that the government had any notion of what Popkin might be able to contribute." 460 F.2d at 336.

Chief Judge Coffin also found, as to the "opinion" questions, that the information sought was probably "as well known to the government experts as to [Popkin]... Nor

has the government information opinion." 46

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Daniel Ellsbe study seems to ance. But the petitioner's to the Pentagon that he had no bility of release Sheehan..., public sources copies of the given definitive.

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<sup>13</sup> One cannot pants that the i does not contain

has the government here shown that it cannot obtain the information it seeks other than by procuring Popkin's opinion." 460 F.2d at 335.

The questions as to the participants in writing the study have no apparent relevance to the commission of any offense, nor did the government offer any explanation in the courts below. Popkin's answers to other questions indicated that the interviews on which any answer would be based took place three or four years before the publication of the study, and no connection can be discerned between the answers to these questions and any violation of law. The questions can only lead to the discovery of who the participants in the study were, and the government already has that information.<sup>13</sup>

The question as to whether petitioner conversed with Daniel Ellsberg concerning the contents or existence of the study seems to have considerable relevance at first appearance. But the relevance disappears when one considers petitioner's testimony "that he had never seen a copy of the Pentagon Papers other than those in mass distribution, that he had not discussed with Daniel Ellsberg the possibility of releasing a copy of the Pentagon Papers to Neil Sheehan..., that he had no knowledge other than from public sources as to how various newspapers had obtained copies of the Pentagon Papers, and that he 'was never given definitive information that someone possessed' the Pentagon Papers in Massachusetts." 460 F.2d at 330.

Five of the seven questions ask for the names of petitioner's confidential sources. The other two seek petitioner's opinion based upon information received from his confidential sources. Thus, this case presents directly, as this Court's holdings in *Branzburg* v. *Hayes*, 408 U.S. 665,

<sup>&</sup>lt;sup>13</sup> One cannot infer from an informant's knowledge of the participants that the informant had access to the study, since the study does not contain the names of its authors.

do not, the questions of how a balancing test is to be applied to questions by a grand jury which impinge upon First Amendment rights.

B. Whether a witness before a grand jury, who has been granted limited transactional immunity, is entitled to be advised of the pertinence of questions asked him to the subject under inquiry by the grand jury, if the questions invade his rights to freedom of speech, press and association.

During petitioner's grand jury appearance, he repeatedly asked that he be informed of the pertinence of the questions to the subject under inquiry by the grand jury. On each occasion, the prosecutor refused to give, or to allow the grand jury to give, any answer. Petitioner argued in the court below that the reasons he needed that information were the same as those of witnesses who appear before legislative committees. E.g., Watkins v. United States, 354 U.S. 178 (1959); Scull v. Commonwealth of Virginia, 359 U.S. 344 (1959).

Similarly to the case of the petitioner in Scull v. Virginia, 359 U.S. 344, 352 (1959), it was "unmistakably clear that the [grand jury's] investigation touched an area of speech, press and association of vital public importance." As in the case of Scull, we urge that petitioner should have had "an opportunity of understanding the basis for the questions or [a] justification on the part of the [grand jury] for seeking the information he refused to give." id., at 353. See Watkins v. United States, 354 U.S. 178, 207-209 (1957), in which the holding was on a statutory basis rather than, as in Scull, and as we contend here it should be, on a constitutional basis.

Furthermo granted only \$793), the wi as to whether power. This legislature ha munity to lin power to force to the partie 466 F.2d 1059 1091 (9th Cir. (2nd Cir. 1971 argument that pertinency, pr might involve However, the agreement, not would not im should not be 1091-1092. Her the witness as sary at all) w objectives of gr such disclosure a constitutional basis, balancing ment's interest

The important cases involving ated firmly by the Scull v. Common ties and Exchange

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<sup>14 18</sup> U.S.C. §§ 2

Furthermore, in cases such as this, where immunity is granted only in a limited area14 (here violations of 18 U.S.C. §793), the witness must be able to make a sound judgment as to whether the question falls within the grand jury's power. This is unlike the usual grand jury case since the legislature has specifically limited the power to grant immunity to limited situations, and the grand jury has no power to force a witness to answer questions not pertinent to the particular authorization. Bursey v. United States, 466 F.2d 1059, 1073-1079, rehearing denied, 466 F.2d 1090, 1091 (9th Cir. 1972); In re Vericker, 446 F.2d 244, 247-248 (2nd Cir. 1971). The Court of Appeals rejected petitioner's argument that a witness is entitled to be informed as to pertinency, primarily on the ground that such information might involve a breach of secrecy. 460 F.2d at 331-332. However, the Ninth Circuit convincingly stated its disagreement, noting that when disclosure in a particular case would not impair the objectives of secrecy, disclosure should not be denied. Bursey v. United States, supra, at 1091-1092. Here, the limited disclosure necessary to advise the witness as to pertinency (if, indeed, any were necessary at all) would not in any way have impaired the objectives of grand jury secrecy. Perhaps in some instances such disclosure would be prohibitively harmful, but such a constitutional claim should be decided on a case-by-case basis, balancing the interests at stake. Here, the government's interest in secrecy was at best de minimis.

The importance of disclosure of pertinency, especially in cases involving First Amendment rights, has been reiterated firmly by this Court. Watkins v. United States, supra; Scull v. Commonwealth of Virginia, supra; Jones v. Securities and Exchange Commission, 298 U.S. 1, 26.

While there have been, until very recently, few cases involving the investigative powers of grand jurors, the

<sup>14 18</sup> U.S.C. §§ 2514, 2516.

recent Branzburg decision emphasizes the need for relevance. This is simply a further explication of the principles stated in Fourth Amendment cases such as Oklahoma Press Publishing Co. v. Walling, 327 U.S. 186, 209; Hale v. Henkel, 201 U.S. 43, 77.

As Mr. Justice Frankfurter said in Watkins, supra, at 217:

"The questions must be put with relevance and definiteness sufficient to enable the witness to know whether his refusal to answer may lead to conviction for...contempt and to enable both the trial and appellate courts readily to determine whether the particular circumstances justify a finding of guilt."

This case is very much like Watkins in that the grand jury had only a limited power to investigate under the grant of immunity, and its power to make inroads into areas protected by important First Amendment rights was limited as well. N.A.A.C.P. v. Alabama, 357 U.S. 449; Sweezy v. New Hampshire, 354 U.S. 234, 245, 247-248, 250-251, Frankfurter, J., concurring at 261. As Mr. Justice Powell stated in concurring in Branzburg, supra, 408 U.S. at 710, the witness will be protected where the information sought bears "only a remote and tenuous relationship to the subject of the investigation," or where there is no legitimate need of law enforcement.

As in Watkins, the first step in protecting a witness who interposes a substantial claim to protection, either because of First Amendment rights or a limited immunity, is to require a disclosure of pertinency, at least where that disclosure does not substantially impair the purposes for grand jury secrecy.

For the certiorari s

#### Conclusion

For the foregoing reasons, the petition for the writ of certiorari should be granted.

Respectfully submitted,

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#### APPENDIX A

No. 72-1090

UNITED STATES OF AMERICA

v.

JOHN DOE

SAMUEL L. POPKIN,

Before Aldrich, Chief Judge, McEntee and Coffin, Circuit Judges.

May 3, 1972

Coffin, Circuit Judge.

This is an appeal by Samuel Popkin from an order of the district court holding him in civil contempt for refusing to answer certain questions propounded to him by a federal grand jury in Massachusetts. An assistant professor of government at Harvard University, Popkin has written numerous articles on the war in Indochina.¹ He contends first that he should not be forced to respond without a demonstration by the government of the relevance of both the general inquiry and the specific questions. He urges also that he should be excused from answering those questions by virtue of a scholar's First Amendment privilege not to divulge his sources of information insofar as those sources are confidential and supply him with informa-

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According to his affidavit, which lists his published works, Popkin has written on a number of war-related subjects ranging from the war's effect on Vietnamese village life and the use of herbicides to more general questions of American policy in Southeast Asia. The affidavit further states that he is presently writing a book "involving the war in Viet Nam and its origins", and that he is a researcher at Harvard's Center for International Affairs and a member of the editorial board of the journal "Public Policy".

tion relating to his field. Finally, he claims that he need not testify until the government has disclaimed the use of illegal electronic surveillance.

The grand jury which issued a subpoena to Popkin is the same as that involved in United States v. Doe (Mike Gravel, United States Senator, Intervenor), 455 F.2d 753 (1st Cir. 1872), cert. granted, 405 U.S. ——, 92 S. Ct. 1243, 31 L. Ed. 2d 450 (Feb. 22, 1972 [hereinafter *Gravel*]).

In ordering Popkin to testify, the district court found that the grand jury is "engaged in an inquiry into alleged violations of Chapter 37 [Espionage and Censorship] and Sections 2314 [Transportation of stolen goods etc.] and 2315 [Sale or receipt of stolen goods etc.] of Title 18, United States Code", with its primary focus the dissemination of the classified Defense Department study known as the Pentagon Papers.

Popkin was first subpoenaed to appear before the grand jury on August 19, 1971. Before that date, he moved to quash the subpoena and for disclosure of electronic surveillance, which motions were denied. The grand jury did not, however, ask him to testify at that time. He received a second subpoena to appear before the grand jury on October 13, Having refused to testify on October 14, he was ordered to reappear on October 27. On that date, he filed motions, supported by his own affidavit and those of twenty-four other social scientists, for an order to protect him from inquiry as to "information obtained by him in his capacity as a scholar, author and teacher", for a transcript of his testimony, and for disclosure of surveillance. After these motions were denied on October 28, Popkin was granted immunity from prosecution and ordered to testify. Again excused, he was not subsequently required to appear until January 18, 1972. His renewed motions for a protective order for a transcript were denied. Upon his refusal to answer three questions, the government sought

and obtained a contempt order on March 21. Popkin purged himself of contempt by answering these three questions on March 27, then answered further questions but, relying on his asserted First Amendment privilege as a scholar, refused to answer a number of other questions. Motions for a protective order and for disclosure were again denied on March 29, and he was held in contempt. He now appeals from the March 29 contempt order.

The district court, without opinion, based its contempt order on Popkin's refusal to answer nine questions, of which the government now presses seven. In order to understand the scope of Popkin's refusal to testify, it may be useful first to sketch the relevant parts of his testimony in response to the questions he did answer. He did state, among other things, that he had never seen a copy of the Pentagon Papers other than those in mass distribution, that he had not discussed with Daniel Ellsberg the possibility of releasing a copy of the Pentagon Papers to Neil Sheehan (of the New York Times), that he had no knowledge other than from public sources as to how various newspapers had obtained copies of the Pentagon Papers, and that he "was never given definitive information that someone possessed" the Pentagon Papers in Massachusetts. In addition, Popkin admitted having an opinion that certain unnamed persons had possession of the Pentagon Papers in Massachusetts, explaining that this opinion was formed on the basis of conversations "with numerous persons about numerous decisions and documents, I see now that a lot of those decisions and documents are in the Pentagon Papers".

The questions Popkin refused to answer represent three lines of inquiry which, while overlapping, we will consider separately. One line of inquiry attempted to identify the participants in the Pentagon Papers study or, more precisely, persons having knowledge as to who participated in the study.

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in the study. This inquiry began with the question: "Who are the persons you interviewed in order to acquire this knowledge of who participated in the Pentagon Papers study?" (chronologically, question 2). This was followed, after Popkin had declined to answer and had indicated in response to subsequent questions that it had never been his research object to discover who participated in the study, by the colloquy (question 3):

"Q. Who are those persons to whom you are referring with regard to conversations in the District of Massachusetts which led you to the knowledge of who are the participants in the Pentagon Papers study?"

"Q. Would you please name them?

A. I respectfully and regretfully decline [etc.]." The second line of inquiry is more explicit and is self-explanatory. Popkin refused to answer the question "Did Daniel Ellsberg ever discuss with you the content or existence of the Pentagon Papers between January 1, 1971 and June 13, 1971?" (question 4).

The third line of inquiry, finally, related to his conceded opinion as to possession of the Pentagon Papers, beginning with the question: "[W]hat is the opinion as to persons you believe possessed a copy of the Pentagon Papers in Massachusetts prior to June 13, 1971." (question 1). The line of inquiry was then temporarily dropped, but was later resumed by repetition of the question (question 5). Subsequently, he refused to answer the question "Would you please name them, those persons who furnished you information which caused you to form an opinion as to persons you believe possessed a copy of the Pentagon Papers in Massachusetts prior to June 13, 1971?" (question 6) and the similar, but somewhat more focussed, question "Who was the conversation with discussing the documents or

decisions indicating that person had knowledge or possession of the Pentagon Papers?" (question 7).

We first discuss appellant's concept that, at least when a grand jury inquiry impinges on the First Amendment rights of a witness, a preliminary showing of relevancy is required. Despite the longstanding doctrine of Blair v. United States, 250 U.S. 273, 282, 39 S. Ct. 468, 471, 63 L. Ed. 979 (1919), that a grand jury witness is "not entitled to urge objections of incompetency or irrelevancy" appellant relies on such legislative inquiry cases as Watkins v. United States, 354 U.S. 178, 77 S. Ct. 1173, 1 L. Ed. 2d 1273 (1957) and Scull v. Commonwealth of Virginia, etc., 359 U.S. 344, 79 S. Ct. 838, 3 L. Ed. 2d 865 (1959).

We are in effect being asked to make new law on the basis of the assumption that grand jury and legislative inquiries function in so similar a fashion that they should be treated alike. The argument, so considered, is not without initial appeal. But a legislative investigation has as its object the resolution of a previously identified problem of a general nature. The power, while broad, is limited to advancing the general resolution. To the extent that individuals can supply information related to the legislative task, they must respond. When the broad brush seeks not only to paint the scene but to detail individual portraits unnecessary to that scene, it ventures too far. The concept of relevance to the legislative purpose is necessary to preserve the boundary between the legislative and the individual, and can ordinarily be enforced by reference to statements of purpose and prior testimony which are already matters of public record.

A grand jury generally has a much smaller object in view, but one in which society has intense interest. At least when inquiring into specific crimes, a grand jury paints with a small brush and necessarily with painstaking detail. Its purpose is to see if there is probable cause to believe

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that particular crimes have been committed by particular persons, although further crimes and perpetrators may be discovered in the course of taking evidence. In either case, the number of facts which would help to identify the crime and the criminal may well be few, and the relevance of one fact may only become apparent after another is uncovered. Thus while the public product of a grand jury is a limited number of indictments, its processes may include the pursuit of numerous strands of evidence, many of which may ultimately be of no use, but none of which can safely be abandoned. From another perspective, even where a grand jury is working on the clear hypothesis of a prosecutor, its success may often depend upon its ability to offer to witnesses a guarantee of secrecy and to suspects the protection of secrecy unless probable cause is found to indict. Any meaningful statement of relevance in response to a witness's request would entail the naming of suspects and the description of prior testimony. Even if a present witness has no wish for secreey, disclosure would injure other witnesses and suspects. We therefore reject appellant's argument based on the asserted similarity of this grand jury to a legislative hearing.

Appellant also attempts to draw support for a rule of relevance from Fourth Amendment cases, such as Oklahoma Press Publishing Co. v. Walling, 327 U.S. 186, 209, 66 S. Ct. 494, 90 L. Ed. 614 (1946). As to this, we deem sufficient Judge Hamley's reference in United States v. Weinberg, 439 F.2d 743, 749 (9th Cir. 1971), to the following language of Judge Zirpoli in In re Grand Jury Witnesses Sherrie Bursey and Brenda Joyce Presley, 322 F. Supp. 573, 576 (N.D. Cal. 1970):

"The grand jury does not need to have probable cause to investigate; rather its function is to determine if probable cause exists. And if probable cause is not required to investigate, it follows that probable

cause is not required to make the preliminary showing necessary to call a witness whose testimony may shed light on criminal activity . . . . "

[1] We conclude that, even if the questions put to appellant have not been demonstrated to be relevant to the grand jury's inquiry, this would not justify his refusals to answer. His invocation of the First Amendment adds nothing to his relevancy claim in the context of a grand jury investigation. Whether he has presented a First Amendment claim strong enough to be treated as a constitutional privilege is a separate question.

In determining whether appellant may refuse to answer any or all of these questions, we are presented, as in *Gravel*, with a confrontation of constitutional power and constitutional privilege, heightened by similar overclaiming on each side. Here also there is little direct precedent to guide us, and though the Supreme Court may soon pronounce law that bears on the balance between the power of the grand jury and First Amendment privileges,<sup>2</sup> we may not await its decision.<sup>3</sup>

The government argues that the scholar's privilege is a creature not to be found in the province of jurisprudence; that the closest analogue, a reporter's privilege, recognized by the Ninth Circuit in Caldwell v. United States, 434 F. 2d 1081 (9th Cir. 1970), cert. granted, United States v.

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<sup>&</sup>lt;sup>2</sup> Argument has been heard in United States v. Caldwell, infra, 40 U.S.L.W. 3405 (Feb. 22, 1972). The precise issue in that case is whether a reporter, claiming a freedom of the press First Amendment right, can be compelled to appear before a grand jury, even though he has already been given the protection of an order barring inquiry into his confidential sources. The witness here is making the narrower claim that, having complied with a subpoena, he may refuse to answer certain questions.

<sup>&</sup>lt;sup>3</sup>28 U.S.C. § 1826(b) requires that we decide this appeal within thirty days after it was filed. We recognize that we have not quite met our deadline. Although we gave this matter first priority, when faced with the choice of exceeding the statutory period or sacrificing deliberation, we chose the former.

<sup>4</sup> See also Nejelski Privilege: What To L. Rev. 1085; Note, tional Right to a ( (1970).

Caldwell, 402 U.S. 942, 91 S. Ct. 1616, 29 L. Ed. 2d 109 (1971), has been otherwise uniformly rejected by the courts; and that even if Caldwell was correctly decided, appellant falls outside its compass, his relationship with his sources not being so intimate as in Caldwell, nor covered by the special canopy of free press, and the grand jury being engaged in a specific rather than a general investigation. Appellant discounts the lack of precedent as stemming from the past absence of efforts to invade a scholar's privilege. He claims to serve a public interest fully as vital as that served by a reporter, which interest would be as grievously imperilled by a forced disclosure of his sources, absent a showing of compelling need by the government.

In Gravel, supra, we held that the Speech and Debate Clause was sufficient to block a grand jury from inquiring of a Senator and his aides about the receiving and preparation for legislative publication, the publication, and any official republication of the Pentagon Papers. Our decision, we recognized, could substantially frustrate a grand jury, for the transactions embargoed from inquiry might encompass a crime. But we thought the result compelled by the Speech and Debate Clause, which is not involved here.

[2] For perspective, it is important to recognize what has not been and could not successfully be argued here. Appellant could not, for example, cite his discomfort in being asked to testify about others. Although the discomfort is real, it is shared by all grand jury witnesses. Indeed, a witness called before a grand jury investigating organized crime may legitimately fear for life and limb. Nor can ap-

<sup>&</sup>lt;sup>4</sup> See also Nejelski & Lerman, A Researcher-Subject Testimonial Privilege: What To Do Before the Subpoena Arrives, 1971 Wisc. L. Rev. 1085; Note, Reporters and Their Sources: The Constitutional Right to a Confidential Relationship, 80 Yale L.J. 317 (1970).

pellant stand on a claim, however justified, that his livelihood as a researcher is threatened. His privilege, if it exists, exists because of an important public interest in the continued flow of information to scholars about public problems which would stop if scholars could be forced to disclose the sources of such information. Appellant is a political scientist. As is true of other behavioral scientists, his research technique rests heavily on inquiry of others as to their attitudes, knowledge, and experience. Often such inquiry is predicated on a relationship of confidence. The question posed to us is whether this relationship gives a scholar a constitutionally based privilege not to testify which others do not possess.

Although both parties have cast their arguments in these broad terms, the substantiated rationale of appellant and the questions put by the grand jury do not, in our opinion. quite meet head on. The overwhelming majority of appellant's affidavits from other scholars lay stress on the importance of a two-way communication between participants in decision making (or those affected) and scholars. The asserted importance of non-disclosure of a network of sources lies in the necessity for a continued flow of inside information to the sphere of scholarly reporting, assessment, and criticism, a flow made particularly important by the selective and self-serving release of information by other, particularly higher officials.5 In short, the thrust of the asserted privilege bears on the right of the scholar not to disclose the identities of his "contacts and sources", those officials and non-governmental actors within the purview of his sp give him the p the claimed p tecting the offic portance of pr via scholars to

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[3] We there ing the names of edge of participa be answered, at 1 not government of

<sup>&</sup>lt;sup>5</sup> This assertion seems buttressed by other experienced observers of the national scene. C. L. Sulzberger, in A Long Row of Candles — Memoirs & Diaries 1934 — 1954 (MacMillan, 1969), states at p. xvi: "May I only summarize by saying these things. Rule A for a newspaperman is that 'leaks' are the food of the trade; and over the years I have found that, as with the best drinks, the leak always fizzes from the top. The desire for indiscretion at the upper level seems compelling."

<sup>&</sup>lt;sup>6</sup> A resolution of of Arts and Science a similar approach.

<sup>&</sup>quot;Without such a that the questions reinvolvement in the permitted to refuse sources." (Jan. 19,

view of his specialty whose actions, knowledge, and views give him the primary data for his work. The reason for the claimed privilege lies not in the importance of protecting the officials and other sources per se but in the importance of preserving the flow of their communications via scholars to the public domain.

This underlying rationale falls short of immunizing a scholar from testifying about conversations with those who are not his sources. Of course a scholar may also be an official or such a participant in an activity that he is also a sensitive source. But to the extent that a scholar qua scholar is asked about statements made to him by other scholars we do not conceive of him as in any different position from that of a doctor asked about his conversations with other doctors, or a lawyer about his talks with other lawyers. Nor is there reason to believe that scholars. as opposed to public officials, will lose their jobs and thus their usefulness as sources if the contents of their conversations are revealed to a grand jury. And while we acknowledge that scholars customarily discuss their work with colleagues and in doing so may perhaps violate confidences, a privilege which would give comprehensive protection to such collateral discussions would make scholars a uniquely privileged class in the broadest sense.

[3] We therefore conclude that the two questions seeking the names of persons interviewed who gave him knowledge of participants in the Pentagon Papers study should be answered, at least to the extent that the persons were not government officials or other participant sources.

<sup>&</sup>lt;sup>6</sup> A resolution of the Faculty Council of the Harvard F: of Arts and Sciences, which appellant calls to our attenta similar approach. It states, in part, that

<sup>&</sup>quot;Without such a demonstration [of a strong need that the questions relate to the scholar's own parinvolvement in the commission of a crime permitted to refuse to answer questions sources." (Jan. 19, 1972).

of the questions, relating to persons in Massachusetts, seems not to be directed either to foreign affairs, intelligence, or defense officials in government or to any person, in or out of the government, in Vietnam. Were it to become clear that a question delved into confidential relationships with such persons, we are not sure that the grand jury would see fit to pursue its inquiry. If it did, however, we would at least have a factual setting enabling us to address the issue less theoretically.

This analysis also disposes of the question asking whether Ellsberg discussed with appellant the content or existence of the Pentagon Papers between January 1 and June 13, 1971. There is no representation that Ellsberg during that period was a government official, or otherwise a sensitive source, or even that Popkin had established a confidential relationship as to these matters with Ellsberg when the latter was a public official.

What this analysis does not dispose of is the remaining group of questions seeking appellant's opinion concerning who might have possessed the Pentagon Papers generally or in Massachusetts and the persons with whom he talked who gave him a basis of that opinion. Appellant had candidly testified that, while he had no knowledge of possession in Massachusetts, he had formed opinions over the years as to persons he thought had had access to the Papers. This kind of inquiry, at least in the present posture of this case, does not appeal to the author of this opinion. Appellant in his brief has asserted that he knows of no case where a witness has been held in contempt for refusing to give an opinion. Nor do I. In the long run, the quest for opinions would not be a useful investigative tool. If appellant were forced to answer, scholar-sleuths would in the future think long and hard before admitting to an opinion, and grand juries would be without workable means for forcing them to do so.

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Beyond this, and more to the point, the previously stated basis for his opinion lay in matching the content of conversations he had had with the content of what subsequently publicly appeared, and deducing that the source was the Papers. Appellant testified that many people had publicly admitted having had access to the Papers or copies thereof. It is reasonable to assume that much of the work forming the basis of appellant's judgment is as well known to government experts as to appellant. In this connection, note the statement, in the Attorney General's instructions regarding subpoenas to the press, that "The Department of Justice does not consider the press an investigative arm of the government" (quoted in Levin v. Marshall, 317 F. Supp. 169, 173-174 (D. Md. 1970). Nor has the government here shown that it cannot obtain the information it seeks other than by procuring Popkin's opinion.

[4] The generality of the opinion questions here, the apparent basis for the opinion being pursued, and the idea of using one scholar to speculate about the sources of others' work, without any showing of strong need therefor, are repugnant to me. In my view, even apart from constitutional claims, we should exercise our supervisory power to state that in this circuit scholars ought not to go to prison for refusing to give their opinions or beliefs based on casual and retrospective reflections on similarities of content. But while my brothers agree that the opinion questions were improper, their objection is a narrower formal one. See infra. Accordingly, at present we simply disapprove the questions as asked.

In addition to appellant's relevancy and First Amendment justifications for refusal to answer, he asserts that he is under no further duty to testify until the government makes a satisfactory disclosure that no illegal electronic surveillance has tainted the questioning. We have traced

the history of appellant's attempts to force disclosure, the last and most formal and specific motion being filed on March 28, the day after his last grand jury appearance, and specifying as the ground for his claim that he had been asked his telephone number.

[5] It may be, as a majority of the Third Circuit held in In the Matter of Egan, 450 F.2d 199 (3rd Cir. 1971), cert. granted United States v. Egan, 404 U.S. 990, 92 S. Ct. 531, 30 L. Ed. 2d 541 (Dec. 14, 1971), that a grand jury witness has standing in a civil contempt proceeding to raise as a defense the prohibition in 18 U.S.C. § 2515 against the introduction of evidence based upon electronic surveillance, or, as a majority of a District of Columbia Circuit panel held in In re Evans, 452 F.2d 1239 (D.C. Cir. 7AE7), that a grand jury witness has standing under 18 U.S.C. § 2518(10) (a) to make a motion to suppress, or that he has standing under 18 U.S.C. § 3504(a) to make the government affirm or deny the use of illegal electronic surveillance. On the other hand, it may be that he has standing under none of these sections. United States v. Gelbard, 443 F.2d 837 (9th Cir. 1971), cert. granted, Gelbard v. United States, 404 U.S. 990, 92 S. Ct. 529, 30 L. Ed. 2d 540 (Dec. 14, 1971). We do not reach the question because we find that Popkin, even if he has standing, has failed to make sufficient claim that the issuance of the subpoena or the asking of questions is the product of illegal surveillance.

Section 2518(10) (a) indicates that a motion to suppress evidence obtained by illegal electronics surveillance may be made on any one of three "grounds" and that "[s]uch

7 The possible grounds are that

"(i) the communication was unlawfully intercepted;

motion shall ing unless th or the person The languag party aggrie is the primar; obtained by the with it, we th party to make may be consi-F.2d at 1268 history details parable requi remedy. Any a requirement illegal action. in effect have we do not thin

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<sup>(</sup>ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

<sup>(</sup>iii) the interception was not made in conformity with the order of authorization or approval." 18 U.S.C. § 2518(10) (a).

<sup>8</sup> Judge Wilkey costs and comple. Even if a disclaim as is there indica and expense are in as much and not grand jury witne veillance.

<sup>&</sup>lt;sup>9</sup> Even this mus claim in the case F.2d at 1250.

motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion." The language of § 3504(a) (1). — "upon a claim by a party aggrieved that evidence is inadmissible because it is the primary product of an unlawful act or because it was obtained by the exploitation of an unlawful act" - carries with it, we think, a similar responsibility on the aggrieved party to make a threshold showing, although the threshold may be considerably lower. See In re Evans, supra, 452 F.2d at 1268 (Wilkey, J., dissenting), and the legislative history detailed there. And while § 2515 contains no comparable requirement, neither does it explicitly provide a remedy. Any implied remedy would, in our view, import a requirement of some showing of basis for suspecting illegal action. Otherwise, the two last cited sections would in effect have enacted an automatic disclosure rule, which we do not think the Congress intended.8

At the same time, we note the statement of Chief Judge Bazelon in In re Evans, supra, 452 F.2d at 1247, that the duty of the government to disclose under § 3504(a) (1) "is triggered . . . by the mere assertion that unlawful wiretapping has been used", and are sensitive to the concern which underlies it. We recognize full well that it is difficult, and perhaps impossible, particularly in the early stages of a case when he is called before the grand jury, for a witness to know that he has been the subject of elec-

<sup>&</sup>lt;sup>8</sup> Judge Wilkey's dissent in In re Evans sketches some of the costs and complexities of making a disclaimer. 452 F.2d at 1255. Even if a disclaimer is not or need not be quite so great an ordeal as is there indicated, it is nevertheless true that sufficient delay and expense are involved to suggest that Congress must have known as much and not intended that, in effect, every subpoena to every grand jury witness have attached to it a disclaimer or log of surveillance.

<sup>&</sup>lt;sup>9</sup> Even this must be read in light of his later statement that the claim in the case before him was not "patently frivolous", 452 F.2d at 1250.

tronic surveillance. We would concede the absurdity of requiring precise information about a surveillance, which, unless poorly done, could not be pin-pointed by the victim. Because of the clusive nature of electronic surveillance, adequate grounds might be gleaned from a number of circumstances, including subject matter, association, coincidence or events.

In the present case, the district court found no such circumstances as would lead it to suspect illegal electronic surveillance. At one stage of the proceedings, on January 18, by way of preliminary questioning, the grand jury asked his name, his address, and his telephone number. The last question was asked again and answered on March 27. We can attach no sinister inference to the fact that the government sought to record these identifying items. The telephone number was in the telephone book. If we drew any inference as to surveillance it might be, in the light of the history of the Pentagon Papers investigation, cf. In re Marx, 451 F.2d 466 (1st Cir. 1971), that the government wanted to be ready to prepare a disclaimer if the court ordered it, which, of couse, it never did. Furthermore, the questions asked in the grand jury were of the broadest and most speculative kind, bearing no hallmark that the government had any specific notion of what Popkin might be able to contribute. On this record, we do not think that the district court erred in refusing to compel the government to affirm or deny illegal electronic surveillance.

The government makes a further point. Although Popkin filed motions to the court raising the matter of illegal surveillance, when he refused to answer questions on March 27 he asserted at length the First Amendment privilege which had been the basis of his original affidavit, but made no mention of his allegation or defense of electronic surveillance. The government says this was a waiver, and

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suggests that the grand jury might accept the claim. While we need not and do not decide whether his actions constituted a waiver, because of his failure adequately to claim illegal electronic surveillance at any time, we believe it behooved him, patricularly with the Marx precedent before him, to reassert the surveillance point when he refused to answer.

Affirmed in part, reversed in part.
Aldrich, Chief Judge (concurring).

We are, to the extent that we are asked to recognize any privilege here at all, exploring very new ground, and while Judge McEntee and I agree with the result, and much of Judge Coffin's opinion, our cast would be somewhat different. A minor difference relates to Judge Coffin's approach to the questions about Popkin's "opinions" as to who had had possession of the Pentagon Papers. Our only objection to those questions is the semantic one that they are badly phrased. What, after all, is meant by an opinion? Had the question been, "Is there anyone who you have reason to believe had possession of the papers in Massachusetts, and what are the reasons?" it would have seemed just the sort of inquiry that might lead to something useful. One cannot expect gold with every stroke of the pick.

Of more significance, we are not so sure on what the court calls "decision-making (and those affected)" sources. A valuable, confidential source may be at a very low, and even unrelated level. If what is sought to be protected is the public interest in information, should not the need of confidentiality be the test, not the position of the source?

This question leads us to a dilemma. What assurance does a court have that there is a need of confidentiality in the particular case? Popkin, if we judge from his oral argument, believes that he should have an all-encompassing mantle in whatever may be his field, so that he can be

known as a "safe" man to talk to. We do not read Judge Coffin as going that far; nor would we. But where does one stop?

Perhaps I am old-fashioned, but I was taught that a scholarly study was valuable to the extent that it disclosed its sources. How does Popkin know that he, and hence his public, is not being horn-swoggled by a "source"! Is there great public worth in a book, the reference table of which consists of a bare curriculum vitae of the author?

The answer may be yes, and may be no. I am tempted to wonder, though I hope uncharacteristically, if too much is not being asked of the First Amendment. Hearst could consider Walter Winchell so valuable to it that it was willing to agree that, in case of a libel suit, it would pick up the tab and not require him to divulge his source. Is the public so interested in research that the government finds itself with a similar, although diminshed in scope, contract of immunity from disclosure with every Ph.D.? If so, we believe it should be in very narrow limits. Happily this case does not call for them to be defined.

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### APPENDIX B

# United States Court of Appeals For the First Circuit

No. 72-1090.

UNITED STATES OF AMERICA,

v.

JOHN DOE,

SAMUEL LEWIS POPKIN,
APPELLANT.

Before Aldrich, Chief Judge, McEntee and Coffin, Circuit Judges.

> ORDER OF COURT Entered May 17, 1972

The motion to stay mandate is allowed until further order of court — said matter to be reconsidered at the close of the Supreme Court Term in June, 1972.

By the Court:

(s) DANA H. GALLUP

Clerk.

[Cert. cc: Clerk, U.S.D.C., Mass.; cc: Messrs. Homans and Reese.]

### APPENDIX C

## United States Court of Appeals For the First Circuit

No. 72-1090.

UNITED STATES OF AMERICA,

JOHN DOE,

SAMUEL LEWIS POPKIN, APPELLANT.

Before Aldrich, Chief Judge, McEntee and Coffin, Circuit Judges.

### MEMORANDUM AND ORDER Entered: July 12, 1972

The Court, after hearing, is of the view that its opinion of May 3, 1972, requires revision in the light of certain recent decisions of the Supreme Court. It is hereby ordered as follows:

- 1. The government shall, if it be able to do so, file a disclaimer of any pertinent electronic surveillance in the form and substance approved by this Court in In re Marx, 451 F.2d 466.
- 2. Upon the filing of such disclaimer this Court will reconsider in the light of those cases the merits of appellant's opposition to the orders of the district court holding him in contempt. It will then issue a new order, from which appellant, or the government, may, if desired, seek certiorari.

No purpose would be served in appellant seeking cert-

iorari at this main in force. iorari at this time. The stay, previously entered, is to remain in force.

By the Court:

DANA H. GALLUP, Clerk

By: (s) Francis P. Scigliano
Chief Deputy Clerk

[Cert. cc: Clerk, U.S.D.C., Mass.; cc: Messrs. Homans and Reese.]

or existence of the Pentagon Papers between January 1, 1971, and June 13, 1971?

No further stay will be granted to seek certiorari.

Without expressing an opinion as to any other question asked, the court vacates the orders of the district court with respect thereto without prejudice, and remands the case to the district court for further proceedings, and questioning of appellant, if such be desired. In passing upon the propriety of questions, the district court shall disregard our opinion of May 3, 1972 to the extent that it concludes that the recent decisions of the Supreme Court require its modification.

By the Court:
(s) DANA H. GALLUP
Clerk.

[Cert. cc: Clerk, U.S.D.C., Mass.; cc: Messrs. Homans and Reese.]

### APPENDIX E

# United States Court of Appeals For the First Circuit

No. 72-1090.

UNITED STATES OF AMERICA,

v.

JOHN DOE,

SAMUEL LEWIS POPKIN,

APPELLANT.

ORDER OF COURT

Entered: October 30, 1972

It is ordered that the Memorandum and Order entered herein on October 13, 1972, be, and the same hereby is, amended by striking the "21 days" appearing in the second paragraph and substituting therein "28 days".

By the Court:

(s) DANA H. GALLUP

Clerk.

[Cert. cc: Clerk, U.S.D.C., Mass.; cc: Messrs. Homans and Reese.]

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### APPENDIX F

## United States Court of Appeals For the First Circuit

No. 72-1090.

UNITED STATES OF AMERICA,
v.
JOHN DOE.

SAMUEL LEWIS POPKIN,

ORDER OF COURT Entered November 7, 1972

Upon motion,

It is ordered that the memorandum and order entered herein on October 13, 1972, as amended on October 30, 1972, be, and the same hereby is, amended by striking "28 days" and substituting therefor "37 days".

By the Court:

(s) DANA H. GALLUP

Clerk.

[Cert. cc: Clerk, U.S.D.C., Mass.; cc: Messrs. Homans and Reese.]

### APPENDIX G

### United States Court of Appeals For the First Circuit

No. 72-1090.

UNITED STATES OF AMERICA,

JOHN DOE,

SAMUEL LEWIS POPKIN,
APPELLANT.

### STIPULATION OF APPELLANT

The United States has interpreted the questions specified in this Court's Order of October 13, 1972, as asking only for the "disclosure of personal contact with fellow scholars concerning the mechanics of the production and dissemination of the 'Pentagon Papers' study" (Memorandum\* p. 4), and that "here, the witness is questioned not about his sources but merely about conversations with other scholars." (Memorandum p. 3) In light of those representations, I hereby stipulate that upon demand I will answer those questions. My refusals have always been directed toward questions requiring disclosure of confidential sources of a sensitive nature, not those relating merely to other scholars.

(s) SAMUEL LEWIS POPKIN
SAMUEL LEWIS POPKIN

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No. 72-1090

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<sup>\*&</sup>quot;Memorandum" refers to the "Memorandum For the United States In Opposition" submitted to the United States Supreme Court by the Solicitor General in response to my Application For Stay. The Memorandum is attached hereto.

### APPENDIX H

# United States Court of Appeals For the First Circuit

No. 72-1090.

UNITED STATES OF AMERICA,

v.

JOHN DOE.

SAMUEL LEWIS POPKIN,
APPELLANT.

MEMORANDUM and ORDER Entered November 17, 1972

The court is offered a stipulation in which, although Popkin states he will answer the questions recited in the court's order of October 13, 1972, he purports to express reasons and possible qualifications. The court did not ask for accompanying statements, and does not understand why they have been expressed. It does not care, by accepting the stipulation, to incur the possibility that it has agreed to conditions or limitations for the future. As it regards Popkin's remarks as imponderables in one sense of the word or another, the clerk is directed not to accept the stipulation for filing, and to return it to counsel.

By the Court:

(s) DANA II. GALLUP

Clerk.

[Cert. ec: Clerk, U.S.D.C., Mass.; cc. Messrs. Klubock and Reese.]

### APPENDIX I

## United States Court of Appeals For the First Circuit

No. 72-1090.

UNITED STATES OF AMERICA,
v.
JOHN DOE,

SAMUEL LEWIS POPKIN,

Before Coffin, Chief Judge, Aldrich and McEntee, Circuit Judges.

> MEMORANDUM and ORDER Entered November 20, 1972

On March 29, 1972 the district court ordered Samuel Lewis Popkin confined forthwith until he answered nine specified questions asked by a grand jury. On the same day it admitted him to bail pending termination of his appeal from said order. Thereafter, under date of May 3, 1972, in connection with an opinion addressed to the merits we indicated that the government should disclaim, if it properly could, any pertinent electronic surveillance. On May 17, we stayed our mandate pending Popkin's proposed petition for certiorari. On September 29 the government filed an appropriate disclaimer, and on October 13 we announced that the order of contempt would be affirmed and the stay terminated unless Popkin, within 21 days, stipulated in writing that he would answer three specified questions. This period was subsequently extended to today.

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[Cert. cc: U.S.

In the meantime, Popkin had applied to the Supreme Court for a stay of our order. On November 10, 1972, the Supreme Court denied Popkin's request.

On November 16 Popkin sought to file a stipulation that he would answer the questions, but to which he added what appeared to the court to be qualifications or conditions. The court ordered the stipulation returned to him for that reason. Today's filing time (5:00 PM) having expired without further action on his part, and Popkin having had ample time in general, and ample opportunity in particular to file a revised stipulation if, in fact, he did not consider the statements in the stipulation originally tendered to be meaningful, the mandate enforcing our order of October 13 is released forthwith with the notation that all stays and all orders of release on bail are herewith terminated.

By the Court:
(s) DANA H. GALLUP

Clerk.

[Cert. cc: U.S. Marshal; cc: Messrs. Klubock and Reese.]

### APPENDIX I

#### [1] UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

EBD 71-210-G

UNITED STATES OF AMERICA

JOHN DOE

Before: Hon. W. Arthur Garrity, Jr., District Judge.

Court Room No. 5 Federal Building Boston, Massachusetts November 21, 1972

Appearances:

Richard E. Bachman, Esq., Assistant United States Attorney, for the government. Daniel Klubock, Esq., and Derek Bok, Esq., for the defendant.

[2] PROCEEDINGS

The Clerk: Emergency Business Docket Number 71-210, United States of America versus John Doe.

The Court: Well, I am going to ask either Mr. Klubock or Mr. Bok, or both of them, but I want to get to you on another question first. I want to be sure I understand your understanding of Assistant Attorney General Olson's statement. If I understand correctly, you believe that this plan not to reconvene the grand jury is one that is dependent upon Mr. Popkin's refusal to answer questions, but if he plans to answer the questions, and perhaps either

in whole or was inquired scholars, as he further p confidential answer Did with him, yo Mr. Bachn

The Court Mr. Bachn

The Court that he will Mr. Ellsberg. talking with 1 name names would just b that basis, wh stand it? Ma:

Mr. Bachm moment.

Mr. Kluboc The Court: to you.

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Mr. Bachma If Mr. Popkir three question that he would The Court: He spent this

Mr. Bachma grand jury in indicated today we would bring

The Court:

in whole or in part, I don't know whether that refinement was inquired into, but if he plans to disclose the names of scholars, as distinguished from confidential sources, and if he further proposes—and here we don't have the scholar-confidential source problem—if he says he is going to answer Did Daniel Ellsberg discuss the Pentagon Papers with him, you are going to reconvene the grand jury.

Mr. Bachman: Yes.

The Court: Is that the situation?

Mr. Bachman: If he indicates that he will answer.

The Court: Well, you have heard through Mr. Klubock that he will answer Question 3 about conversations with Mr. Ellsberg. That is what Mr. Klubock just said after talking with him. Mr. [3] Klubock also said that he would name names in response to Questions 1 and 2, but they would just be scholars, not confidential sources. So on that basis, what is the government's intention as you understand it? Maybe you should talk to Mr. Gabriel.

Mr. Bachman: If I may talk with Mr. Gabriel for a moment.

Mr. Klubock: Your Honor-

The Court: Well, let him talk, and then I will get back to you.

[Mr. Bachman conferred with Mr. Gabriel.]

Mr. Backman: I can answer it this way, your Honor: If Mr. Popkin indicates that he is willing to answer all three questions—well, if he is incarcerated and he indicates that he would be willing to answer all three questions—

The Court: Excuse me. He is incarcerated right now. He spent this morning up in the Marshal's Office.

Mr. Bachman: Then the government would bring the grand jury in as soon as possible. For example, if he indicated today that he would answer the three questions, we would bring the grand jury in tomorrow.

The Court: Well, he has indicated he will answer Num-

ber 3 and he will answer Number 1 and Number 2 in part. You remember the part.

Mr. Bachman: Yes.

The Court: The part having to do with scholars but not [4] having to do with confidential sources. Are you able to state—I don't know whether you are or not—whether under such a posture the grand jury would come in tomorrow, or whenever? As soon as possible.

Mr. Bachman: Well, if he answered—if he only indicated that he would be willing to answer the questions in part, your Honor, the government would feel that he had not purged himself of his contempt. I believe the government's present intention—and I would have to discuss this not only in further detail with Mr. Gabriel but other persons—that it would not call in the grand jury unless he indicated that he was willing to purge himself of his contempt fully.

The Court: Well, thank you....

[5] The Court: ... the Court will make its rulings and will state the reasons. Both motions are denied, of course, without prejudice to the witness, Mr. Popkin, filing another motion to vacate if it is accompanied by an unconditional undertaking to answer the questions contained in the order of the Court of Appeals dated October 13, 1972.

I will make it clear that there is no need for Mr. Popkin to testify in order to purge himself of contempt. That is not the way the statute reads. The statute provides for confinement until such time as the witness is willing to give such testimony. It is because of the language of the statute

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that the order of the Court of Appeals stated that the contempt order would be affirmed unless Mr. Popkin stipulated in writing to answer the questions on demand, and it listed three questions, and if Mr. Popkin is prepared to file an unqualified statement now or five minutes or an hour from now, or whenever he wishes, he thereby purges himself of contempt and would be released.

However, the statements filed thus far contain, in my opinion, qualifications which are inconsistent with the law as I understand it, principally the decision of the Court of [6] Appeals of this circuit in the Popkin case, and indirectly in the Supreme Court Branzburg case which we have been talking about.

The same is true with respect to the motion to suspend. The Court denies that motion. There is no reason for the allowance of a motion to suspend, as I see it. Within the past 24 hours, Mr. Popkin has submitted two stipulations, one incorporating the language of a memorandum by the Solicitor General's Office, and those qualifications were rejected by the Court of Appeals. The Court of Appeals indeed would not even accept for filing that qualified stipulation.

Now today, Mr. Popkin has stipulated, and I quote: "I will upon demand answer the three questions asked by the government and specified in the order of the Court of Appeals as those questions have been interpreted by the government." Well, if that last clause is omitted and there is an unconditional and unqualified expression of willingness in writing by Mr. Popkin that he will on demand answer the questions, well, then he will have thereby purged himself of contempt, and there is, Mr. Bachman, no need for a grand jury to be convened in tomorrow morning or at any great rush. All that is required of Mr. Popkin is a writing, not an appearance. It is a statement in writing of willingness.

Now I want to make just a couple of other points by way [7] of explaining my action. There might have been some possible confusion in my stating that I would accept government counsel's representations as to the government's intention here, and I consider that the government speaks only through Mr. Bachman and Mr. Gabriel. I had in mind times for convening the grand jury and its intentions generally when so stating. I did not mean that I discounted Solicitor General Griswold's brief because Mr. Bachman disagreed with it.

I did not and do not in any way feel bound by the government's interpretation of the Solicitor General's memorandum to the Supreme Court of the United States. On that I think it is a matter of argument. I do, however, agree with the interpretation proposed by Mr. Bachman. As I suggested repeatedly in my questions, I feel that in the Solicitor General's memorandum, he was talking not about the narrowness of the questions put by the grand jury or in the grand jury room, but rather the narrowness of the record in support of an appeal or certiorari to the Supreme Court of the United States.

Surely the questions are as broad as they could be, "Who are the persons you interviewed?" That is a very broad question. I'believe that the memorandum of the Solicitor General makes the point that the record is too narrow to raise the question of the interrogatories put in the grand jury being narrower than they appear to be.

[8] The other point that I wish to state is that I gave consideration to a sort of middle ground here, namely, to suggest that Mr. Popkin might submit for in camera inspection, that is, the inspection of the Court only, the names of persons whom he considers to be confidential sources and the reasons why he feels that the confidentiality must be protected and should be thought to outweigh the public interest in the grand jury's investigation, but I have de-

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cided that such a course would not be consistent with the Branzburg case.

I simply do not attach as much significance to Mr. Justice Powell's one-and-a-half-page concurring opinion in that case as does Mr. Klubock. Well, it is a two-and-a-half-page opinion. But in any event, it is a short concurring opinion.

Let's assume that Mr. Popkin undertook to make a showing now regarding the need for confidentiality of the sources whom he is reluctant to name. Even on the basis of such a showing, it is my understanding of the Branzburg case that that would still not be a proper defense to an application for contempt. I understand Branzburg to hold that, important though the First Amendment rights of newspaper reporters are-and I think no one would question that; certainly I don't question that-important though the rights under the First Amendment of academic researchers and professors and writers and authors and dramatists and others mentioned in the Supreme Court opinion are, when they come into conflict with the grand jury duty to run down fully [9] an investigation of a crime that has been specified as being investigated, those rights must yield. I think, therefore, that nothing is added, there is no productive purpose would be served, by my suggesting that the record be expanded at this juncture.

For those reasons, I will endorse those—I think the motion to suspend simply "Denied," because I think it doesn't accomplish much, or anything, but I think with respect to the motion to vacate, it is denied without prejudice, and certainly I hope and expect that counsel and Mr. Popkin will consider whether they feel that some further action is indicated in these premises.

That concludes the hearing in this case this afternoon, and we will recess.

(Thereupon the hearing was concluded.)

### APPENDIX K

### STATUTORY PROVISIONS INVOLVED

18 U.S.C. §793, 64 Stat. 1003 provides:

§ 793. Gathering, transmitting, or losing defense information

Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation, goes upon, enters, flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, fueling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, research laboratory or station or other place connected with the national defense owned or constructed, or in progress of construction by the United States or under the control of the United States, or of any of its officers, departments, or agencies, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, stored, or are the subject of research or development, under any contract or agreement with the United States, or any department or agency thereof, or with any person on behalf of the United States, or otherwise on behalf of the United States, or any prohibited place so designated by the President by proclamation in time of war or in case of national emergency in which anything for the use of the Army, Navy, or Air Force is being prepared or constructed or stored, information as to which prohibited place the President has det defense; or

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dent has determined would be prejudicial to the national defense; or

- (b) Whoever, for the purpose aforesaid, and with like intent or reason to believe, copies, takes, makes, or obtains, or attempts to copy, take, make, or obtain, any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or
- (c) Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to the provisions of this chapter; or
- (d) Whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or
  - (e) Whoever having unauthorized possession of, access

to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it; or

Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of his trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer-

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which

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18 U.S.C. §2 § 2314.

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is the object of such conspiracy. June 25, 1948, c. 645, 62 Stat. 736; Sept. 23, 1950, c. 1024, Title I, § 18, 64 Stat. 1003.

18 U.S.C. §2314, 82 Stat. 885, provides:

§ 2314. Transportation of stolen goods, securities, moneys, fraudulent state tax stamps, or articles used in counterfeiting.

Whoever transports in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud; or

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person to travel in, or to be transported in interstate commerce in the execution or concealment of a scheme or artifice to defraud that person of money or property having a value of \$5,000 or more; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any traveler's check bearing a forged countersignature; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamps, or any part thereof—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

This section shall not apply to any falsely made, forged,

altered, counterfeited or spurious representation of an obligation or other security of the United States, or of an obligation, bond, certificate, security, treasury note, bill, promise to pay or bank note issued by any foreign government or by a bank or corporation of any foreign country.

June 25, 1948, c. 645, 62 Stat. 806; May 24, 1949, c. 139, § 45, 63 Stat. 96; July 9, 1956, c. 519, 70 Stat. 507; Oct. 4, 1961, Pub.L. 87-371, § 2, 75 Stat. 802; Sept. 28, 1968, Pub.L. 90-535, 82 Stat. 885.

18 U.S.C. §2315, 75 Stat. 802, provides:

§ 2315. SALE OR RECEIPT OF STOLEN GOODS, SECURITIES, MONEYS, OR FRAUDULENT STATE TAX STAMPS.

Whoever receives, conceals, stores, barters, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of \$5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of \$500 or more, moving as, or which constitute interstate or foreign commerce, knowing the same to have been stolen, unlawfully converted, or taken; or

Whoever receives, conceals, stores, barters, sells, or disposes or any falsely made, forged, altered, or counterfeited securities or tax stamps, or pledges or accepts as security for a loan any falsely made, forged, altered, or counterfeited securities or tax stamps, moving as, or which are a part of, or which constitute interstate or foreign commerce, knowing the same to have been so falsely made, forged, altered, or counterfeited; or

Whoever receives in interstate or foreign commerce, or conceals, stores, barters, sells, or disposes of, any tool, implement, or thing used or intended to be used in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof, moving as, or which is

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§ 2514. Wheneve the testimo papers, or proceeding States invo the offenses to violate t in section : United Stat General, sh ness shall subject to t of the court, ing or from the ground

a part of, or which constitutes interstate or foreign commerce, knowing that the same is fitted to be used, or has been used, in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

This section shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of an obligation or other security of the United States or of an obligation, bond, certificate, security, treasury note, bill, promise to pay, or bank note, issued by any foreign government or by a bank or corporation of any foreign country.

June 25, 1948, c. 645, 62 Stat. 806; Oct. 4, 1961, Pub.L. 87-371, § 3, 75 Stat. 202.

18 U.S.C. §2514, 82 Stat. 216, provides:

§ 2514. Immunity of witnesses

Whenever in the judgment of a United States attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any case or proceeding before any grand jury or court of the United States involving any violation of this chapter or any of the offenses enumerated in section 2516, or any conspiracy to violate this chapter or any of the offenses enumerated in section 2516 is necessary to the public interest, such United States attorney, upon the approval of the Attorney General, shall make application to the court that the witness shall be instructed to testify or produce evidence subject to the provisions of this section, and upon order of the court, such witness shall not be excused from testifying or from producing books, papers or other evidence on the ground that the testimony or evidence required of him

may tend to incriminate him or subject him to a penalty or forfeiture. No such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding (except in a proceeding described in the next sentence) against him in any court. No witness shall be exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

18 U.S.C. §2516, 82 Stat. 216, provides in pertinent part:

"(a) any offense punishable by death or by imprisonment for more than one year... under the following chapters of this title: chapter 37 (relating to espionage)....;

"

"(c) any offense which is punishable under the following sections of this title:...sections 2314 and 2315 (interstate transportation of stolen property);

٠...

"(g) any conspiracy to commit any of the foregoing offenses."

28 U.S.C. §1826, 84 Stat. 932, provides in pertinent part: § 1826. Recalcitrant witnesses

(a) Whenever a witness in any proceeding before or ancillary to any court or grand jury of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any book, paper, document, record, recording or other material, the court, upon such refusal, or when such refusal is duly brought to its attention, may summarily

order his as the with such infor exceed the

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sions, court

order his confinement at a suitable place until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the life of—

- (1) the court proceeding, or
- (2) the term of the grand jury, including extensions, before which such refusal to comply with the court order occurred, but in no event shall such confinement exceed eighteen months.

FEDERAL BUREAU OF INVESTIGATION

COMMUNICATIONS SECTION

JAN 3 0 1973

TELETYPE

NR 027 LA CODE/

807 PM NITEX 1-30-73 MAH

TO ACTING DIRECTOR (65-74060) (ATTN: DID)

FROM LOS ANGELES (105-27952) 3P

MC LEK, SIO.

DURING COURT SESSION JANUARY THIRTY INSTANT, J. FRED
BUZHARDT, CHIEF CONSEL, DEPARTMENT OF DEFENSE (DOD), WAS
QUESTIONED EXTENSIVELY BY DEFENSE ATTORNEYS REGARDING ANY
KNOWLEDGE HE HAD THAT DOD SUPPRESSED OR DESTROYED REPORTS
SHOWING DISCLOSURE OF THE MC NAMARA STUDY CAUSED

LITTLE OR NO DAMAGE TO NATIONAL DEFENSE. AT CONCLUSION
OF QUESTIONING, DEFENSE ATTORNEY, CHARLES NESSON, ADVISED
COURT THEY HAD INFORMATION FROM A WITNESS, WHOM THEY WOULD
NOT NAME, THAT CHARLES HINKLE, OFFICE OF SECURITY REVIEW,
DOD, WHICH OFFICE PERFORMED THE ANALYSES OF EFFECT PARAMETERS.

NATIONAL DEFENSE OF DISCLOSURE OF PENTAGON PAPERS
RECEIVED ORDERS FORM DOD OFFICIALS TO SUPPRESS AND DESTROY
EXCULPATORY MATERIAL SHOWING DISCLOSURE CAUSED NO DAMAGE TO

THE NATIONAL DEFENSE.

END PAGE ONE

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1/31/77 AAG, ISO

Mr. Felt . Mr. Baker . Mr. Callahan Mr. Cleveland Mr. Conrad Mr. Dalbey . Mr. Gebbardt Mr. Jenkins Mr. Marshall Mr. Miller, E.3 Mr. Purvis . Mr. Soyars . Mr. Walters . Tele. Room Mr. Kinley -Mr. Armourong Ma. fiervaç -

Coffic

22 FEB 1 1973

PAGE TWO

JUDGE BYRNE ORDERED DEFENSE TO SUBMIT AN AFFIDAVIT
IN CAMERA THIS EVENING SHOWING PROOF OF THEIR ALLEGATION.
BYRNE STATED IN EVENT SUFFICIENT PROBABLE CAUSE
EXISTED IN THE AFFIDAVIT HE WOULD CALL CHARLES HINKLE AND THE
UNNAMED DEFENSE WITNESS TO TESTIFY IN THIS MATTER ON JANUARY
THIRTYONE NEXT.

DEFENSE ATTORNEY BOUDIN THEN ADVISED JUDGE BYRNE THAT UPON TESTIMONY OF THESE TWO WITNESSES HE WAS PREPARED TO ARGUE A MOTION TO DIDMISS THE INDICTMENT ON THE BASIS OF THE GOVERNMENT'S VIOLATION ON MOTION FOR DISCOVERY OF EXCULPATORY MATERIAL.

DURING COURSE OF TODAY'S SESSION JUDGE BYRNE ADVISED HE WOULD NOT MAKE THE SENSITIVE MATERIAL DELIVERED BY NSA COURIER ON JANUARY TWENTYSEVEN LAST AVAILABLE TO DEFENSE. ADMINISTRATIVE:

RE NITEL, JANUARY TWENTYNINE LAST.

MR. BUZHARDT HAS ADVISED THAT THE UNNAMED DEFENSE WITNESS
IS WITHOUT DOUBT LIEUTENANT COLONEL EDWARD MILLER, U. S. AIR FORCE,
RETIRED, WHO WORKED UNDER HINKLE IN THE OFFICE OF SECURITY
REVIEW, DOD, AND WHO WAS INVOLUNTARILY RETIRED UPON BEING PASSED
OVER FOR PROMOTION IN SPRING OF NINETEEN SEVENTYTWO AND THEREAFTER WORKED IN BEHALF OF THE MC GOVERN PRESIDENTIAL CAMPAIGN.
END PAGE TWO

PAGE THREE LA 105-27952

END

IT APPEARS FROM THE LINE OF QUESTIONING BY THE DEFENSE
THAT THEY HAVE MATERIAL FURNISHED TO THEM FROM HINKLE'S OFFICE,
POSSIBLY BY COLONEL MILLER. BUZHARDT ADVISED HE PREVIOUSLY
QUESTIONED HINKLE AS TO WHETHER OR NOT HE EVER RECEIVED
ANY ORDERS TO SUPPRESS OR DESTROY EXCULPATORY MATERIAL.
HINKLE WAS ADAMANT HE HAD NOT.

COMMUNICATIONS SECTION

JAN 3 0 1973

NR 24 LA CODE

1038 PM NITEL 1-29-73 DLB

TO ACTING DIRECTOR (65-74060) ATTN: DID

FROM LOS ANGELES (105-27952) 2P

MC LEK, SIO.

Mr. Manhall
Mr. Miller, E.S.
Mr. Purvis
Mr. Soyors
Mr. Wollers
Tele. Room
Mr. Kinley
Mr. Armstong
Ms. Hervig
Mrs. Needox

Mr. Callahun

Mr. Dalbey \_\_\_\_ Mr. Gabbardt . Mr. Jankins \_\_\_\_

Mr. Cleveland

ON JANUARY TWENTY SEVEN LAST ADDITIONAL DOCUMENTS REQUESTED BY JUDGE BYRNE FROM DEPARTMENT OF DEFENSE WERE REVIEWED BY JUDGE BYRNE IN CAMERA AND RETURNED TO CUSTODY OF NSA COURIER WITH INSTRUCTIONS THEY BE KEPT IN LOS ANGELES AREA TEMPORARILY TO ASSIST IN QUESTIONING OF J. FRED BUZHARDT, DEPARTMENT OF DEFENSE AND JOHN L. MARTIN, SECTION CHIEF, DEPARTMENT OF JUSTICE.

DURING COURT SESSION JANUARY TWENTY NINE INSTANT JOHN MARTIN QUESTIONED IN GREAT DEPTH BY DEFENSE ATTORNEY CHARLES NESSON OUTSIDE PRESENCE OF JURY REGARDING EXTENT OF ANALYSIS RECEIVED BY DEPARTMENT OF JUSTICE FROM DEFENSE DEPARTMENT AND STATE DEPARTMENT. ALL DOCUMENTS PRODUCED BY JUSTICE DEPARTMENT IN THIS REGARD HAVE BEEN SUBMITTED TO JUDGE BYRNE IN CAMERA.

UPON COMPLETION OF QUESTIONING OF MARTIN DEFENSE WILL QUESTION

BUZHARDT CONCERNING MUCH THE SAME AREA. DEFENSE ATTEMPTING TO

PROVE THAT THERE WERE ANALYSES MADE BY DEFENSE DEPARTMENT SHOWING FEB 1 1976

LITTLE OR NO DAMAGE TO NATIONAL DEFENSE. WHICH GOVERNMENT

END PAGE ONE

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DESTROYED AND DIRECTED THAT NEW ANALYSIS BE MADE.

ADMINISTRATIVE. REFERENCE LOS ANGELES TELETYPE JANUARY
TWENTY SIX LAST.

PRESUMABLY ON COMPLETION OF QUESTIONING OF BUZHARDT BY
DEFENSE, JUDGE BYRNE WILL RULE ON WHICH ITEMS HE RECEIVED IN
CAMERA WILL BE MADE AVAILABLE TO DEFENSE. INCLUDED IN ITEMS
BYRNE HAS RECEIVED IN CAMERA ARE THE HIGHLY SENSITIVE DOCUMENTS
BROUGHT OUT BY NSA COURIER ON JANUARY TWENTY SEVEN LAST.

EMB 00 G

FBI WA RDR

FEB 0 1 19730 / NR 025 LA CODE 840PM NITEL 2-1-73 GLD TELLTYP TO ACTING DIRECTOR (65-74060) FROM LOS ANGELES (105-27952)

MC LEK, SIO.

QUESTIONING OF LIEUTENAMT COLONEL EDWARD A. MILLER CONCLUDED AT TWO THIRTY PM, FEBRUARY ONE INSTANT. CROSS EXAMINATION OF MILLER BROUGHT FORTH MANY INACCURACIES WHICH MILLER READILY ADMITTED. HOWEVER. HE STEAD FASTLY STUCK TO HIS PREVIOUS TEST IMONY THAT HINKLE HAD TOLD HIM THAT JERRY FREIDHEIM HAD TOLD HINKLE THAT MILLER'S REPORTS SHOULD BE REMOVED FROM THE FILES OF THE OFFICE OF SECURITY REVIEW. MILLER TESTIFIED THAT AFTER HE TURNED HIS COVER MEMO AND THE NINE A MALYSIS OVER OF HIS ATTORNEY, JOHN WELLS, IN APPROXIMATELY JA MUARY, NINETEEN SEVENTYTWO, WELLS PUT HIM IN TOUCH WITH ATTORNEY CHARLES FISHMAN, WHO IS ALLEGEDLY A MEMBER OF SENATOR MIKE GRAVEL'S STAFF. FISHMAN THEN BROUGHT MILLER TO GRAVEL'S OFFICE ON CAPITOL HILL ST-115 RFC-3 WHERE THEY HAD A MEETING WITH THE SENATOR AT WHICH HE DISCUSSED THE ISSUES IN THIS INQUIRY. 22 FEB 5 1973 END PAGE ONE

Tela. Room Mr. Kin' w ... Mr. America Mis. Torrect Mrs. Liveur

Mr. Purmir Mr. Sevens Mr. Wolters

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TO THE STATE OF TH

LA 105-27952 PAGE TWO

LAST WITNESS TO TESTIFY WAS CHARLES HINKLE, DIRECTOR, OFFICE OF SECURITY REVIEW, DEPARTMENT OF DEFENSE (DOD).

UNDER DIRECTO EXAMINATION BY DEPARTMENTAL ATTOR NEY NISSEN, HINKLE TESTIFIED HE HAD NO RECOLLECTION OF FREIDHEIM EVER TELLING HIM TO REMOVE MILLER'S REPORTS FROM HIS FILES AND HAD NO RECOLLECTION OF DRAFTING ANY MEMO TO THE FILE REFLECTING SUCH INSTRUCTIONS FROM FREIDHEIM. HINKLE STRESSED THAT IT WAS ONLY TO HIS RECOLLECTION AND WOULD NOT STATE ONE WAY OR A NOTHER IF IT WAS POSSIBLE.

HEARINGS RESUME 2:30 PM, 2/2/ NEXT WHEN DEFENSE MOTIONS WILL BE ARGUED.

END

COMMUNICATIONS SECTION

FEBO2 BLJ

NR 934 LA CODE

833 PM NITEL 2-2-73 RWM

TELETYPE

TO ACTING DIRECTOR (65-74060)

FROM LOS ANGELES (105-27952) 3P.

MC LEK, SIO.

Charge 1

Mr. techins
Mr. Larshall
Mr. Larshall
Mr. I rvis
Mr. S vars
Mr. S vars
Mr. Walters
Tele. Poom
Mr. Kit lay
Mr. Armenong

Mr. Recurs ..

lar. Feit

Mr. Boker .

Mr. Callahan Mr. Cleveland Mr. Conrad Mr. Calbey

Mr. ( ebhardt

COURT SESSION COMMENCED TWO THIRTY P.M., FEBRUARY IWO INSTANT. DEFENSE ATTORNEYS INDICATED A MOTION FOR DISMISSAL OF INDICTMENT WOULD BE ARGUED ON BEHALF OF BOTH DEFENDANTS AND A MOTION FOR A MISTRIAL WOULD BE ARGUED ON BEHALF OF RUSSO.

THE GOVERNMENT'S FAILURE FOR TIMELY DISCLOSURE OF EXCULPATORY

MATERIAL UNDER THE BRADY RULE; THE GOVERNMENT'S FAILURE TO

COMPLY WITH THE APRIL, MINETEEN SEVERTYTWO COURT ORDER FOR

DISCOVERY OF EXCULPATORY MATERIAL THE GOVERNMENT'S FAILURE

TO REVEAL BEFORE THE START OF THE TRIAL THIS MATERIAL; THE

GOVERNMENT'S FAILURE TO ADVISE THE GRAND JURY WHICH RETURNED

THE INDICTMENT OF THIS MATERIAL; AND THE FACT THAT THE

22 FEB 6 1973

GOVERNMENT DELIBERATELY AND WILLFULLY DID ALL OF THE ABOVE.

BOUDIN'S ARGUMENT WAS STRONGLY BASED ON THE FAILURE OF GOVERNMENT

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TA 105-27952 PAGE TWO

TO PRODUCE THE LIEUTENANT COLONEL MILLER REPORTS AND ON THE FACT THAT AFTER REVIEW OF THE TWENTY ANALYSIS OF THE DOCUMENTS INVOLVED IN THIS INDICTMENT, JUDGE BYRNE HAS TURNED OVER TO THE DEFENSE THIRTEEN OF THESE ANALYSIS AS THEY SHOW LITTLE OR NO RELATION TO THE NATIONAL DEFENSE.

JUDGE BYRNE DENIED DEFENSE MOTIONS FOR DISMISSAL OF INDICTMENT AND MISTRIAL. TRIAL RESUMES 2/5/73.

ADMINISTRATIVE:

ON FEBRUARY TWO INSTANT DAVID MISSEN ADVISED THAT THE ATTORNEY FOR THE RAND CORPORATION HAD CONTACTED HIM REQUESTING IF THE GOVERNMENT INTENDED TO ADVISE THE COURT OF THE PREVIOUS FBI INVESTIGATION OF DANIEL ELLSBERG IN MINETEEN SEVENTY, AS RAND EMPLOYEES WHO WOULD BE TESTIFYING, SUCH AS MENRY HOWEN AND RICHARD BEST, WERE CERTAIN THAT THEY WOULD HAVE TO BRING IT OUT IN COURT UNDER CROSS EXAMINATION. IN THIS REGARD, MISSEN HAS REQUESTED HE BE FURNISHED WITH ALL COPIES OF FBI FD THREE ZERO TWOS, LETTERHEAD MEMORANDA OR REPORTS CONCERNING THE PRIOR INVESTIGATION OF ELLSBERG IN MINETEEN SEVENTY. LOS ANGELES IS IN POSSESSION OF THREE LETTERHEAD MEMORANDA REFLECTING THIS INVESTIGATION AND, WACB, ONLY THESE END PAGE TWO